Bail Reform & Recidivism Series

Examining the System-Wide Effect of Eliminating Bail in New York City: A Controlled-Interrupted Time Series Study

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DATA COLLABORATIVE FOR JUSTICE
AT JOHN JAY COLLEGE
STRENGTH IN NUMBERS

JOHN JAY COLLEGE OF CRIMINAL JUSTICE

Table of Contents

Supplemental Document: Available Here on Report Landing Page.

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The Study's Upshot

Effective from January to June 2020, New York's initial bail reform law eliminated the option to set bail for mainly misdemeanor and non-violent felony offenses. Beginning in July 2020, successive rounds of amendments reinstated bail eligibility for some of these offenses, as well as introduced new eligibility criteria allowing judges to consider certain elements of a person's past criminal justice involvement.

Using controlled-interrupted time series analysis (CITS), this study estimated the effect of New York's initial reform on recidivism in New York City by comparing re-arrest rates before reform (January to December 2019) and after reform (January to June 2020) and between bail-eligible and bail-ineligible offenses. Eliminating the option to set bail under the reform was not associated with a change in overall re-arrest, felony re-arrest, or violent felony re-arrest rates within either 2 years or during the pretrial period (capped at 6 months of tracking).

However, for "high risk" individuals with a separate pending case at the time of arraignment, there was an increase approaching statistical significance in violent felony re-arrest within two years, and a statistically significant increase in violent felony re-arrest within the pretrial period. There were no differences in overall re-arrest or felony re-arrest rates for this subgroup.

The findings from this study are broadly consistent with prior research on New York's bail reform. Two earlier studies found no impact of bail reform on crime rates within New York City or statewide; and an earlier Data Collaborative for Justice study found that for cases made ineligible for bail, re-arrest rates decreased overall, though for a similarly defined and relatively small "high risk" subgroup re-arrest rates increased.

Chapter 1.
Introduction

In January 2020, New York implemented a bail reform law restricting judges' discretion to set bail and detain people for certain charges. This study used a controlled-interrupted time series design (CITS) to compare recidivism rates before and after reform, as well as between cases made ineligible for bail ("treatment group") and those that remained eligible ("control group"). By estimating not only whether recidivism rates changed post-reform but also whether any changes differed between the treatment and control groups, this approach allowed us to minimize confounding from events occurring around the time of the reform (e.g., the Covid-19 pandemic).

Background:
New York's Bail Reform Law in Brief

In April 2019, New York passed the Bail Elimination Act, a reform law limiting judges' discretion to set bail or detain people.[1] Prior to its enactment, judges had the option to set bail in all cases. After the law took effect in January 2020, bail was eliminated for nearly all misdemeanor and non-violent felony offenses. In effect, this meant that pretrial release was mandated based on a single factor: the type of offense charged at arraigment.

In response to concerns regarding public safety following implementation, New York's bail reform law was amended several months later.[2] Implemented in July 2020, the amendments made a list of additional charges (mainly misdemeanors and non-violent felonies) eligible for bail. Additionally, several amendments introduced eligibility criteria allowing judges to consider certain aspects of a person's past involvement with the criminal justice system. For example, judges were permitted to set bail if the current charge and an earlier pending charge were found to involve "harm to an identifiable person or property."[3] These change effectively ended New York's solely charge-based restriction on the use of bail.

Prior Research on Bail Reform and Public Safety

Studies Outside of New York

In jurisdictions throughout the United States, various bail reforms have been implemented with the aim of reducing reliance on money bail and pretrial detention. For the most part, research has not found a strong association between these reforms and crime.[4]

- **New Jersey**: This state's legislative reforms included: (1) restriction on the use of pretrial detention to individuals at high risk of either flight or new criminal activity; (2) restriction on the use of bail solely to individuals at high risk of flight; and (3) the addition of a pretrial risk assessment tool to inform judges' decisions. Together, these reforms effectively eliminated the option of bail in nearly all cases. Using an interrupted time series analysis, researchers found a

reduction in misdemeanor arrests following reform and no change in either direction in other types of arrests.[5]

- **Philadelphia**: District Attorney Larry Krasner announced that his office would no longer seek bail for 25 low-level felony and misdemeanor offenses. Using a difference-in-differences design to compare bail eligible offenses to bail ineligible offenses, researchers found that the policy had no impact on the likelihood of pretrial re-arrest.[6]

- **Cook County, Illinois**: The Chief Justice issued a court order establishing a presumption of release for the large majority of individuals facing charges. Comparing matched samples pre- and post-reform, researchers found that the order was associated with a four percentage-point decrease in pretrial detention but no change in pretrial re-arrest.[7]

- **Mecklenburg County, North Carolina**: While not explicitly limiting judges' ability to set bail, a new automated risk assessment tool was implemented to identify individuals suitable for pretrial release. Using an interrupted time series design, researchers found that following reform, there was a two percentage-point increase in re-arrests within one year of the initial arrest date. However, as charges filed in Mecklenburg became more serious in the period after the risk assessment reforms were implemented, the authors did not attribute this small recidivism change to the reform.[8]

- **Harris County, Texas**: A court-ordered consent decree mandated the pretrial release of a subset of misdemeanor offenses. Using a difference-in-differences design, researchers found no differences in one-year re-arrest rates and modest decreases in three-year re-arrest rates.[9]

Prior New York Studies

To date, three rigorous studies have evaluated the effect of New York's bail reform law on crime or recidivism.

- **Evaluation of Recidivism in New York City**: In the first study of the Data Collaborative for Justice's Bail Reform & Recidivism Series, inverse probability of treatment weighting (IPTW) was used to estimate the effect of bail reform on two-year recidivism rates in New York City. The research design isolated people who were likely to have been impacted by reform and estimated the effect of pretrial release among: (1) cases made ineligible for money bail and pretrial detention; and (2) cases that remained eligible for bail but where judges became more likely to opt for release due to provisions such as the universal availability of pretrial supervision. Results showed a decrease in recidivism for bail-ineligible cases released under reform but no effects in either direction for bail-eligible cases. Subgroup analyses found that recidivism tended to increase for individuals with a recent violent felony arrest and, in some analyses, a current open case. In contrast, recidivism decreased for people with no prior criminal history.[10]

- **Evaluation of Select Crime Impacts in New York City**: Researchers at the University of Southern California, Cornell University, and the NYC Criminal Justice Agency used a synthetic control design to estimate the effect of reform in New York City on multiple incident-level crime types, including assault, theft, robbery, burglary, and drug crime. Findings showed no significant increases in New York City compared to the synthetically matched cities for all crime types except robbery.[11]

- **Evaluation of Index Crime Impacts in New York State**: Researchers at the University of Albany used a synthetic control design to estimate the effect of reform throughout New York State on index crime. Findings showed that while murder, larceny and motor vehicle theft increased post-reform, the increases were not significantly different from those in the synthetically matched states.[12]

Purpose of the Current Study

Researchers have previously evaluated the effect of New York's bail law on overall crime,[13] and isolated the effects of reform on recidivism for matched samples of impacted individuals.[14] However, there has yet to be an analysis testing whether the general policy of eliminating bail for select charges led to higher, lower, or no change in overall re-arrest rates.

In this study, we address the question: *Did bail reform result in a system-wide change in recidivism rates among people charged with a bail-ineligible offense?* A controlled-interrupted time series design was used to compare recidivism pre- and post-reform and between bail-ineligible ("treatment") and bail-eligible ("control") cases. Recidivism measures were broken out by the severity of the new offense: **any offense**, **felony offense**, and **violent felony offense**.

Two distinct follow-up periods were used for each measure: (1) two-year re-arrest rate from initial arrest, regardless of when a case was resolved; and (2) pretrial re-arrest occurring within the first six months while a case was pending. To avoid wide variations in the length of the pretrial period for different cases, no case had pretrial re-arrests tracked past six months. (Described below, we used a pretrial measure with a 6-month follow-up period created by researchers at the New York State Division of Criminal Justice Services.)

Why Analyze Recidivism Over Two Different Periods?

Several theories have been put forward for how money bail and pretrial detention might impact recidivism, including:

- **Incapacitation Through Pretrial Detention**: By definition, people cannot be re-arrested in the community while confined in jail before trial.

- **Deterrent Effects of Pretrial Detention**: The threat of detention, whether or not judges actually impose it in a specific case, may reduce a person's likelihood of recidivism.

- **Criminogenic Effects of Pretrial Detention**: People who were detained may be at elevated risk of recidivism owing to criminogenic harms of incarceration.[15]

Identifying the mechanism behind bail reform's effect on recidivism poses a unique challenge. That said, the pretrial measure aimed to capture whether the option to set bail lowered recidivism through an incapacitation and/or deterrent effect, while the two-year measure enabled us to also capture whether pretrial detention ultimately increased recidivism through a criminogenic effect.

Subgroup Analysis of People with a Pending Case

For each recidivism measure we conducted subgroup analyses for individuals with a pending case. This allowed us to examine whether this study replicated the finding from the Data Collaborative for Justice's prior bail reform-recidivism study; specifically, that while people released due to the elimination of bail saw reduced recidivism overall, recidivism increased for a small "high-risk" subgroup.[16]

Beyond Bail Eligibility

By dividing cases into treatment and control groups based on bail eligibility, this study evaluated the effect of eliminating judicial discretion to set money bail or detain people for certain offense types. However, it is important to note that New York's legislative reforms included a variety of other changes to the bail laws that affected both the treatment and comparison groups, including:

- **Universal Supervision Option**: All cases became eligible for pretrial supervision.
- **Presumption of Release**: The law introduced a presumption of release on recognizance in all cases and only permitted pretrial conditions where a person was deemed to pose a demonstrable "risk of flight to avoid prosecution."
- **Least Restrictive Condition**: Even when a flight risk was deemed to be present, judges were required to set the "least restrictive" release condition(s) necessary to ensure court appearance.
- **Ability to Pay**: The law required judges to consider a person's ability to pay bail before setting an amount and to offer at least three forms of bail, including one with the option to pay only 10% or less of the total bail amount up-front ("partially secured bond").

Prior research indicates that, combined, these provisions led bail-setting and pretrial detention rates to decline among cases that remained eligible for bail.[17]

Chapter 2.
Data and Methods

The following pages describe our data sources, tracking periods, study design and methods.

Recidivism Tracking Periods

Two-Year Recidivism

A growing body of research suggests that pretrial detention can have criminogenic effects in the period following release.[18] To account for pretrial detention's long-run effects on recidivism, it was therefore important to examine recidivism beyond just the pretrial period.

We used data provided by the Office of Court Administration (OCA) to construct recidivism measures with a two-year follow-up period. The recidivism measures were broken out by the severity of the new offense as follows: any re-arrest, felony re-arrest, and violent felony re-arrest. Notably, only re-arrests that resulted in prosecution were captured by the two-year recidivism measures.

Pretrial Recidivism (Tracking Capped at 6 Months)

For our analysis of pretrial recidivism, we used publicly available pretrial data collected jointly by New York's Division of Criminal Justice Services (DCJS) and Office of Court Administration (OCA).[19] The DCJS/OCA public dataset was created to study the impact of bail reform on pretrial decision-making and pretrial recidivism. These data include case information on all prosecutions for fingerprintable offenses (to allow for accurate tracking of pretrial re-arrests) of individuals 18 or older between 2019 and 2021.

The DCJS/OCA dataset includes several recidivism measures capturing whether an individual was re-arrested pretrial. One measure captures re-arrests at any time during the pretrial period. Another measure does the same for cases resolved within 6 months, but caps the tracking period at 6 months for cases that took longer to be resolved. (During the Covid-19 pandemic, extended case processing times were common.[20]) To limit bias due to variability in pretrial length, we used the standardized 6-month pretrial recidivism measures. Like the two-year measures, the pretrial recidivism measures were broken out by the severity the severity of the new offense as follows: **any re-arrest**, **felony re-arrest**, and **violent felony re-arrest.**

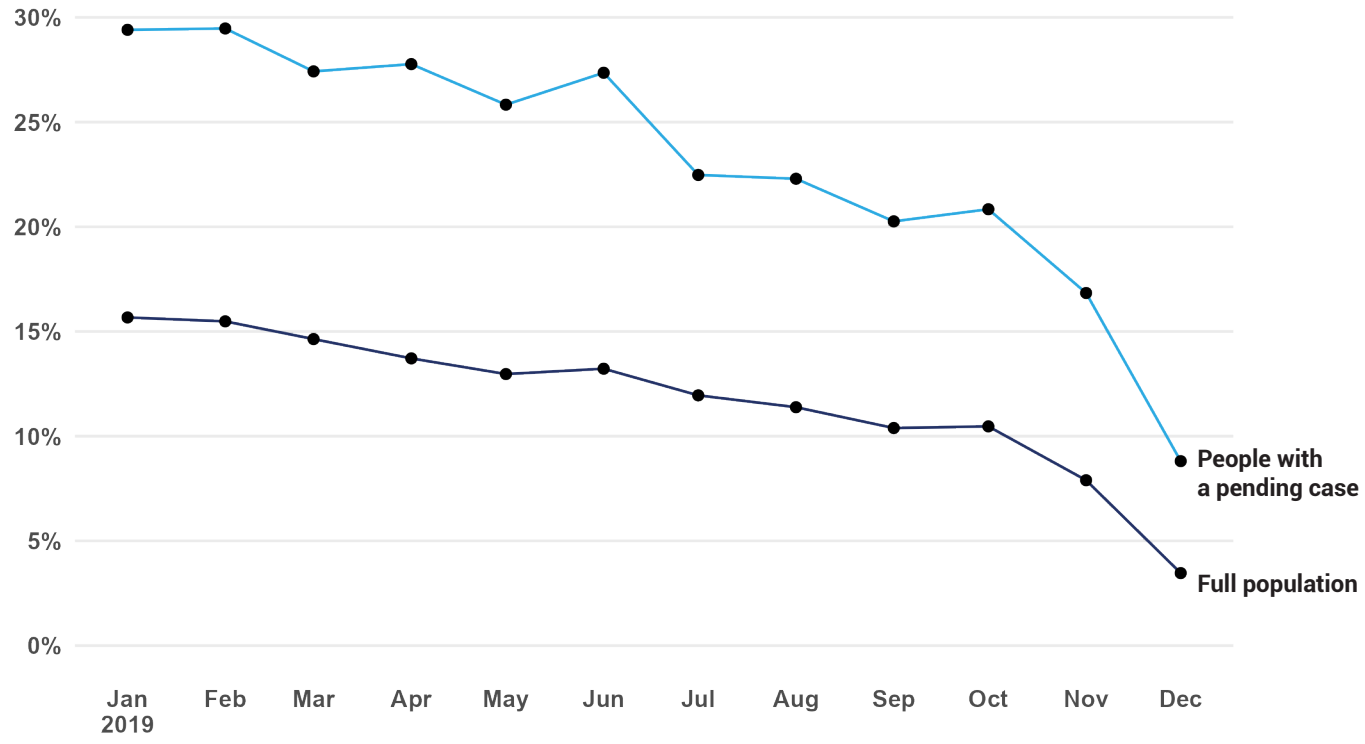
Intervention Timing

In April 2019, the Bail Elimination Act was signed into law with an effective date of January 1, 2020. The bail eligibility requirements in the law were retroactive, meaning that individuals who were already held in detention for failure to make bail on an ineligible offense were subject to immediate release on the January 2020 effective date.

Partly to avoid a scenario where people held on bail-ineligible offenses were released all at once, the Office of Court Administration encouraged judges to enact the reform prior to the implementation date.[21] Figure 2.1 shows monthly bail-setting trends in 2019 among individuals facing charges that became ineligible for bail the following year (2020). In both the general population and in the subgroup of people with a pending case, a substantial decrease in bail setting can be seen starting in November 2019. We therefore used November 2019 as the interruption date for our main analyses.

While November 2019 is the most plausible timing of the onset of changes to practice, the patterns observed in bail-setting do not exclude the possibility of changes among some judges occurring even earlier. To account for possible anticipatory effects, we conducted robust checks using a September 2019 interruption date. Findings from these models were generally consistent with our main analysis (see Supplemental Document to this report).

Figure 2.1
Bail-Setting Trends in the Year Before Reform (2019)
Among Individuals Charged with a Bail-Ineligible Offense



Controlled-Interrupted Time Series Methods

We used interrupted time series analysis (ITSA) to estimate the impact of bail reform on aggregated recidivism rates for cohorts of people arraigned in a given month. Specifically, we tracked recidivism for monthly cohorts of cases arraigned between January 2019 and June 2020.

ITSA methods are suitable for evaluating policy interventions when a single population is studied, the outcome is ordered in a time series, and multiple observations are captured in the pre- and post-intervention periods.[22] In the absence of a true experimental design, ITSA is considered a strong quasi-experimental alternative.[23]

Single-Group versus Multiple Group

With a single-group ITSA design, the impact of an intervention is estimated by using the period before the intervention as a counterfactual and adjusting for the pre-intervention trend.[24] However, an important limitation of single-group ITSA is that it cannot rule out time-varying confounders that were not part of the pre-intervention trend; for example, other events occurring around the time of an intervention.[25] One way to deal with this potential source of confounding is to include a control series that is: 1) unaffected by the treatment, and 2) shares confounders with the intervention series.[26]

Treatment and Control Groups in the Current Study

To limit confounding from time-varying factors (e.g., changes related to the onset of the COVID-19 pandemic), this analysis included a control series. Specifically, the treatment group consisted of individuals whose arraignment charge made them ineligible for bail under the reforms, while the control group consisted of individuals whose arraignment charge remained eligible for bail. By estimating the effect of not only whether recidivism rates changed post-reform, but whether any changes differed between the treatment group and control groups, this approach allowed us to better isolate the causal impact of eliminating bail. (A more detailed description of these methods is provided in the Supplemental Document.)

Caveat: As noted in Chapter 1, while the control group is unaffected by the treatment under study (i.e., elimination of bail as a legal option), it is affected by other reforms such as universal pretrial supervision eligibility and provisions requiring judges to consider people's ability to pay bail.

How We Estimated Bail Reform's Effect

We estimated the multiple-group interrupted time series models using segmented regression, a common approach for evaluating the effect of policy interventions.[27] To carry out the analysis, we used Stata's ITSA command which relies on ordinary-least squares (rather than ARIMA) given its flexibility and broad applicability in the context of time series analyses.[28] The multiple-group interrupted time series models include a time variable (indicating time from the start of the study), a dummy variable for the start of the reform (November 2019), a dummy variable for cohort assignment (bail ineligible vs. bail eligible), and interaction terms among these variables. Because the reform was rolled out over time rather than all at once, our main parameter of interest is the difference in post-intervention slopes; i.e., the difference between the two groups in recidivism trends before the intervention compared to the difference in recidivism trends after.

Subgroup Analysis of Individuals with a Pending Case

As noted above, the first study in the DCJ's Bail Reform & Recidivism Series found that eliminating bail led to an increase in recidivism among a small "high-risk" subgroup, with the primary risk factors being a pending case or a prior violent felony arrest in the two years before the current case.

In the present study, we isolated people with at least one pending case at the time of arraignment. Among bail-ineligible cases, 27.8% fell into this category. For these "high-risk" individuals, bail was set at a rate that was about twice as high as in the general population in 2019 (23.7% vs. 12.1%). These analyses aimed to capture the effect of reform among this small subset of individuals who were especially likely to have had bail set absent reform.

Exclusions from Sampled Cases

Because our aim was to test for a system-wide effect, we studied the vast majority of cases arraigned during the study period. However, we omitted cases arraigned for low-level offenses not included in New York's criminal code (e.g., certain violations of vehicle traffic law, tax law, or workers' compensation law), and cases where judges did not have an opportunity to set bail (i.e., cases disposed at arraignment or subject to a pretrial hold in another case).

Chapter 3.
The Impact of Bail Elimination on Recidivism

Results follow, respectively for two-year recidivism (encompassing both pretrial and post-disposition tracking periods) and when isolating the immediate pretrial period.

Two-Year Recidivism Results

Overall Effects

Table 3.1 shows the average monthly recidivism rates across the two segments of the analysis: (1) the pre-reform period (January 2019 - October 2019) and (2) the post-reform period (November 2019 - June 2020).

For the treatment group, the monthly average rate of any recidivism marginally decreased from 37.3% to 37.1% (-0.2%) between the pre-reform and the post-reform period, but the felony and violent felony recidivism rates increased from 17.3% to 19.1% (+1.8%) and from 9.3% to 11.1% (+1.8%), respectively. For the control group, the recidivism rate increased pre-reform to post-reform from 38.9% to 41.0% for any re-arrest (+2.1%), from 20.4% to 23.0% for felony re-arrest (+2.6%), and from 11.5% to 13.7% for violent felony re-arrest (+2.2%).

Table 3.1
Average Two-Year Recidivism

	Treatment (Bail Ineligible)			Control (Bail Eligible)		
	Pre Reform	Post Reform	Diff.	Pre Reform	Post Reform	Diff.
Any Re-Arrest	37.3%	37.1%	-0.2%	38.9%	41.0%	+2.1%
Felony Re-Arrest	17.3%	19.1%	+1.8%	20.4%	23.0%	+2.6%
VFO Re-Arrest	9.3%	11.1%	+1.8%	11.5%	13.7%	+2.2%

Using multiple-group segmented regression models, we were able to account for pre-reform trends and estimate not only whether recidivism rates increased post-reform but, if so, whether any increases significantly differed between the treatment and control groups.

Findings from the CITS models are presented in Table 3.2, with model estimates graphically illustrated in Figure 3.1. Post-reform there were statistically significant increases from the pre-reform trend within the treatment and control groups across all three measures, but when compared between the treatment and control groups the differences were not statistically significant.

How To Read the Findings from the CITS Tables

Our model parameter of interest is the difference in post-intervention linear slopes (see "Difference" rows in tables below). The difference parameter addresses whether the trajectory of the recidivism rates differed between the treatment and control groups post-reform. For example, if recidivism increased in both groups post-reform, it would tell us whether the rate of increase was steeper in the treatment group.

Below are definitions of terms used to describe the estimates (i.e., the columns in the tables):

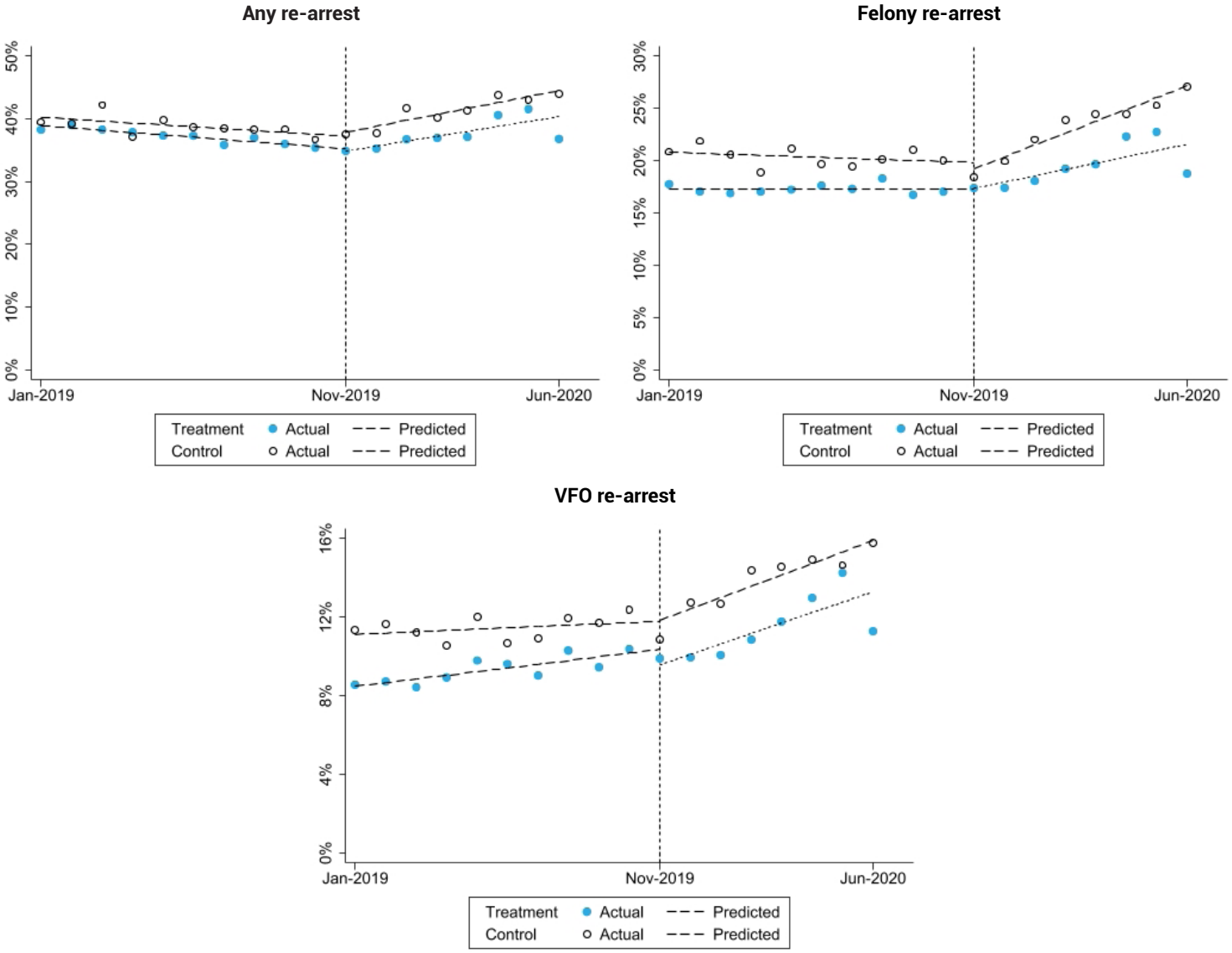
- Coefficient: The magnitude of the difference in the post-reform recidivism rates measured in percentage points per month.
- p-value: The probability of seeing a particular percentage-point difference by chance. A very low p-value (typically .05 or less) suggests that the difference was very unlikely to be due to chance and is therefore considered "statistically significant."
- Confidence interval: Range of values that the true magnitude of the difference likely falls within.

Table 3.2
Controlled-Interrupted Time Series Models
Two-Year Recidivism

	Coef.	Std. Err.	*t*	*p*-value	95% Confidence Interval	
Any Re-Arrest						
Treatment	.78	.26	3.03	**.01**	.25	1.31
Control	.95	.13	7.41	**.00**	.69	1.21
Difference	-.17	.29	-.58	.57	-.76	.43
Felony Re-Arrest						
Treatment	.60	.29	2.05	**.05**	-.00	1.21
Control	1.13	.10	11.21	**.00**	.92	.1.34
Difference	-.53	.31	-1.70	.10	-1.16	.11
VFO Re-Arrest						
Treatment	.53	.17	3.12	**.01**	.18	.88
Control	.58	.07	8.09	**.00**	.43	.73
Difference	-.05	.18	-.27	.79	-.43	.33

Note: *p*-values shown in bold indicate statistical significance.

Figure 3.1
Controlled-Interrupted Time Series Models
Two-Year Recidivism Among Full Population



Subgroup Effects: People with a Pending Case

We also conducted subgroup analyses of two-year recidivism among people with a pending criminal case at the time of arraignment. Table 3.3 shows the descriptive statistics for this subset of individuals. The results indicate that re-arrest rates increased for both the treatment and control groups post-reform.

Table 3.3
Average Two-Year Recidivism Among Subgroup

	Treatment (Bail Ineligible)			Control (Bail Eligible)		
	Pre Reform	Post Reform	Diff.	Pre Reform	Post Reform	Diff.
Any Re-Arrest	66.1%	69.9%	+3.8%	55.6%	59.9%	+4.3%
Felony Re-Arrest	36.2%	44.0%	+7.8%	31.2%	37.0%	+5.8%
VFO Re-Arrest	19.8%	27.2%	+7.4%	17.1%	21.3%	+4.2%

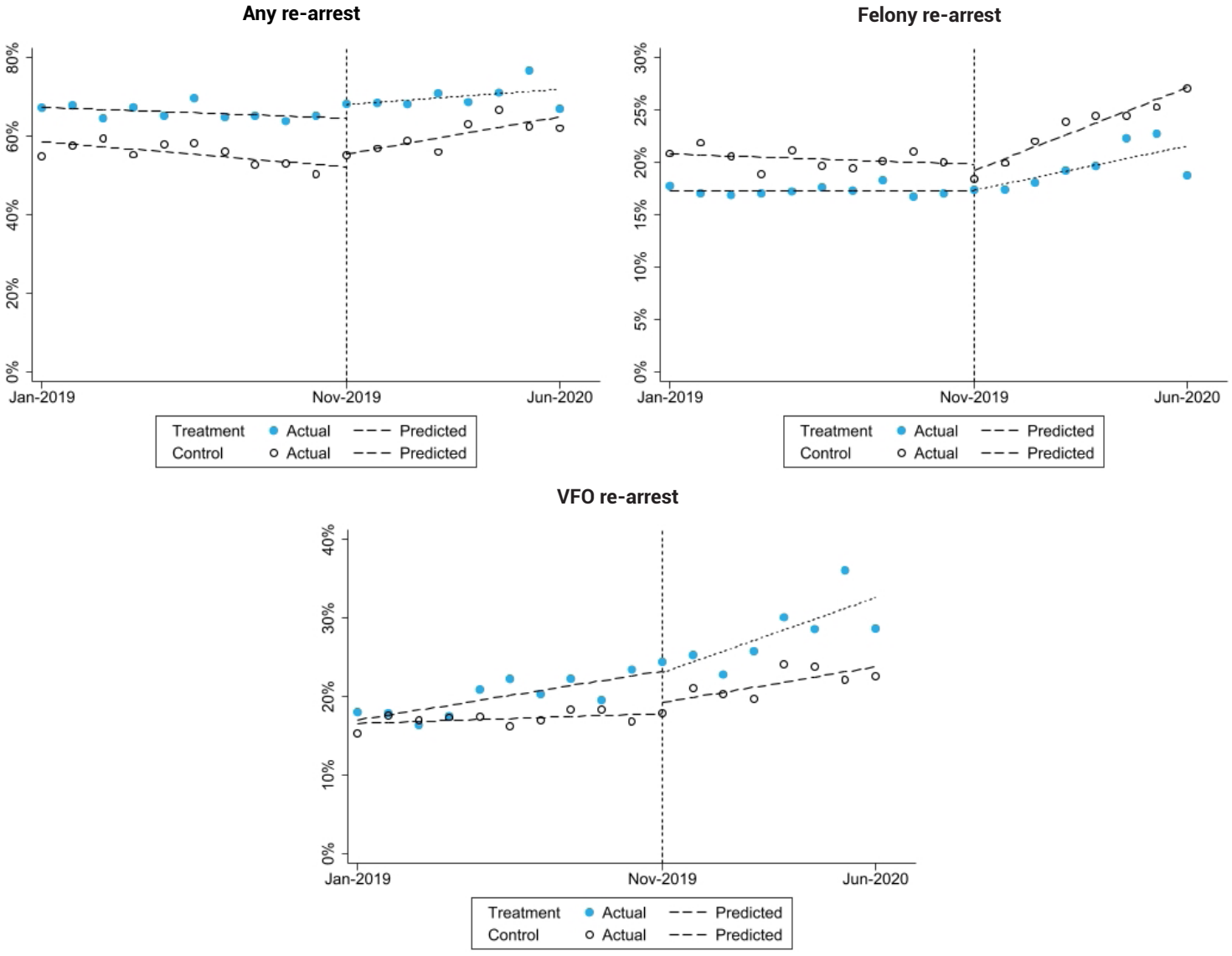
Table 3.4 and Figure 3.2 show that post-reform, there were several statistically significant increases within the groups, but no significant differences between them. However, the treatment group showed a greater increase than the control group in violent felony re-arrest rates at a level that approached statistical significance (p = .09).[29] (When modeled with a September 2019 interruption date, this finding was statistically significant at the .05 level.)

Table 3.4
Controlled-Interrupted Time Series Models: Two-Year Recidivism Among Subgroup

	Coef.	Std. Err.	*t*	*p*-value	95% Confidence Interval	
Any Re-Arrest						
Treatment	.56	.46	1.23	.23	-.38	1.49
Control	1.34	.32	4.13	**.00**	.68	2.01
Difference	-.78	.56	-1.39	.17	-1.93	.37
Felony Re-Arrest						
Treatment	1.23	.46	2.66	**.01**	.29	2.18
Control	1.64	.28	5.83	**.00**	1.06	2.22
Difference	-.41	.54	-.75	.46	-1.52	.70
VFO Re-Arrest						
Treatment	1.36	.36	3.74	**.00**	.62	2.11
Control	.65	.18	3.62	**.00**	.28	1.02
Difference	.71	.41	1.75	.09	-.12	1.54

Note: *p*-values shown in bold indicate statistical significance.

Figure 3.2
Controlled-Interrupted Time Series Models
Two-Year Recidivism Among Subgroup



Pretrial Recidivism Results (Tracking Capped at 6 Months)

Table 3.5 shows descriptive statistics on the treatment and control group pre- and post-reform for each pretrial recidivism measure.

For the treatment group, the average monthly pretrial re-arrest rates increased from 19.9% to 24.2% for any re-arrest (+4.2%), from 11.2% to 15.7% for felony re-arrest (+4.5%), and from 3.1% to 5.8% for violent felony re- arrest (+2.7%). For the control group, the average increased from 19.0% to 21.3% (+2.3%), from 12.9% to 15.3% for felony re-arrest (+2.4%), and from 3.6% to 5.3% for violent felony re-arrest (+1.7%).

Table 3.5
Average Pretrial Recidivism Within 6 Months Among the Full Population

	Treatment (Bail Ineligible)			Control (Bail Eligible)		
	Pre Reform	Post Reform	Diff.	Pre Reform	Post Reform	Diff.
Any Re-Arrest	19.9%	24.2%	+4.3%	19.0%	21.3%	+2.3%
Felony Re-Arrest	11.2%	15.7%	+1.8%	12.9%	15.3%	+2.4%
VFO Re-Arrest	3.1%	5.8%	+2.7%	3.6%	5.3%	+1.7%

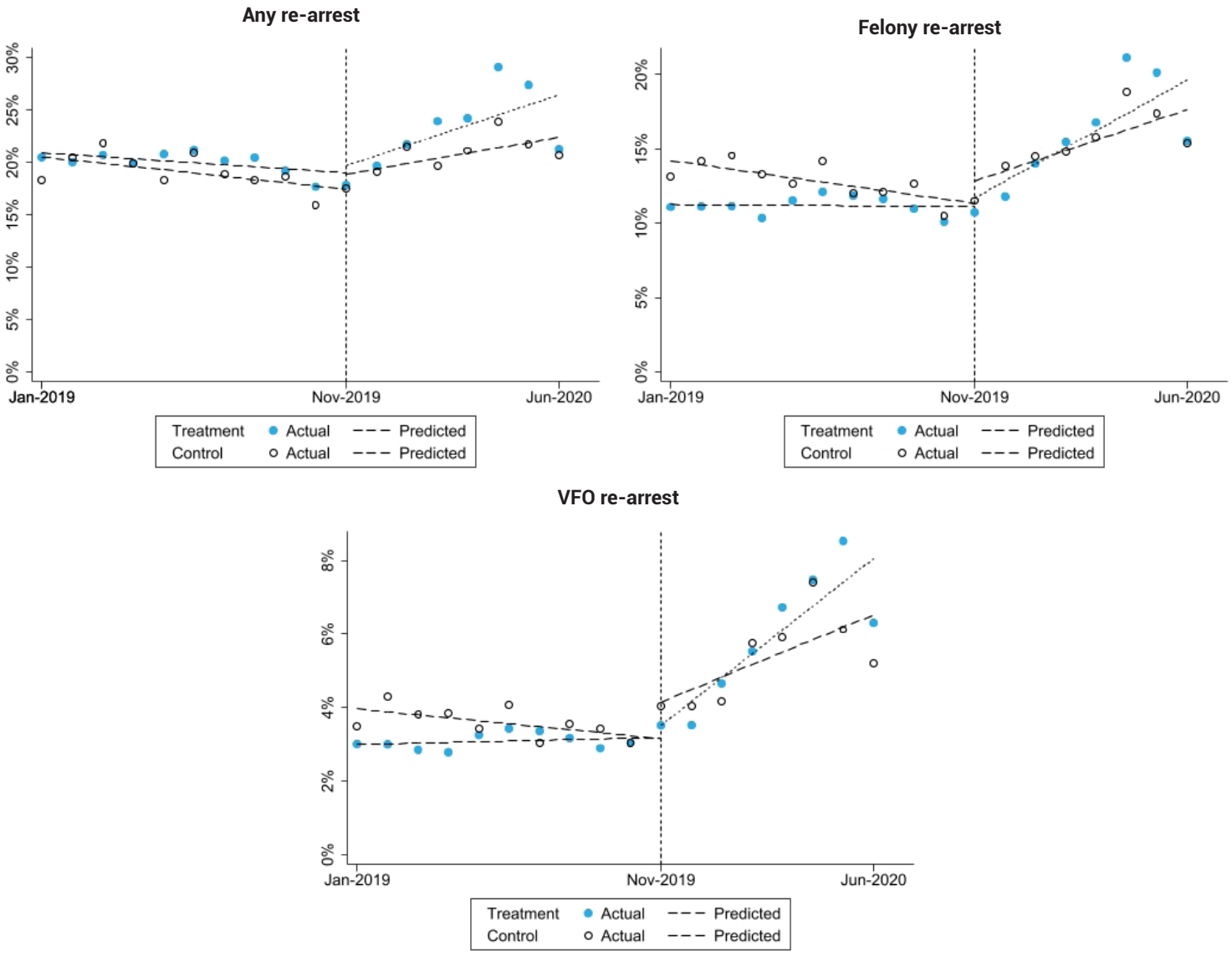
Table 3.6 and Figure 3.3. show that while post-reform there were several statistically significant increases within the groups, the differences between the groups were not statistically significant for any of the recidivism measures.

Table 3.6
Controlled-Interrupted Time Series Models: Pretrial Recidivism Within 6 Months Among the Full Population

	Coef.	Std. Err.	*t*	*p*-value	95% Confidence Interval	
Any Re-Arrest						
Treatment	.97	.61	1.60	.12	-.27	2.21
Control	.51	.24	2.09	**.05**	.01	1.00
Difference	.46	.65	0.71	.49	-.88	1.80
Felony Re-Arrest						
Treatment	1.13	.47	2.41	**.02**	.17	2.09
Control	.69	.28	2.44	**.02**	.11	1.26
Difference	.45	.55	.81	.42	-.68	1.57
VFO Re-Arrest						
Treatment	.65	.19	3.46	**.00**	.26	1.03
Control	.34	.15	2.33	**.03**	.04	.64
Difference	.31	.24	1.30	.20	-.18	.79

Note: *p*-values shown in bold indicate statistical significance.

Figure 3.3
Controlled-Interrupted Time Series Models
Pretrial Recidivism Within 6 Months Among the Full Population



Subgroup Effects: People with a Pending Case

Table 3.7 shows descriptive statistics for individuals with a pending case. The results indicate that average monthly pretrial re-arrest rates increased for both the treatment and control groups post-reform.

Table 3.7
Average Pretrial Recidivism Within 6 Months Among the Subgroup

	Treatment (Bail Ineligible)			Control (Bail Eligible)		
	Pre Reform	Post Reform	Diff.	Pre Reform	Post Reform	Diff.
Any Re-Arrest	36.9%	46.5%	+9.6%	27.9%	31.3%	+3.4%
Felony Re-Arrest	20.7%	31.0%	+10.3%	19.5%	23.1%	+3.6%
VFO Re-Arrest	5.8%	12.1%	+6.3%	4.9%	8.1%	+3.2%

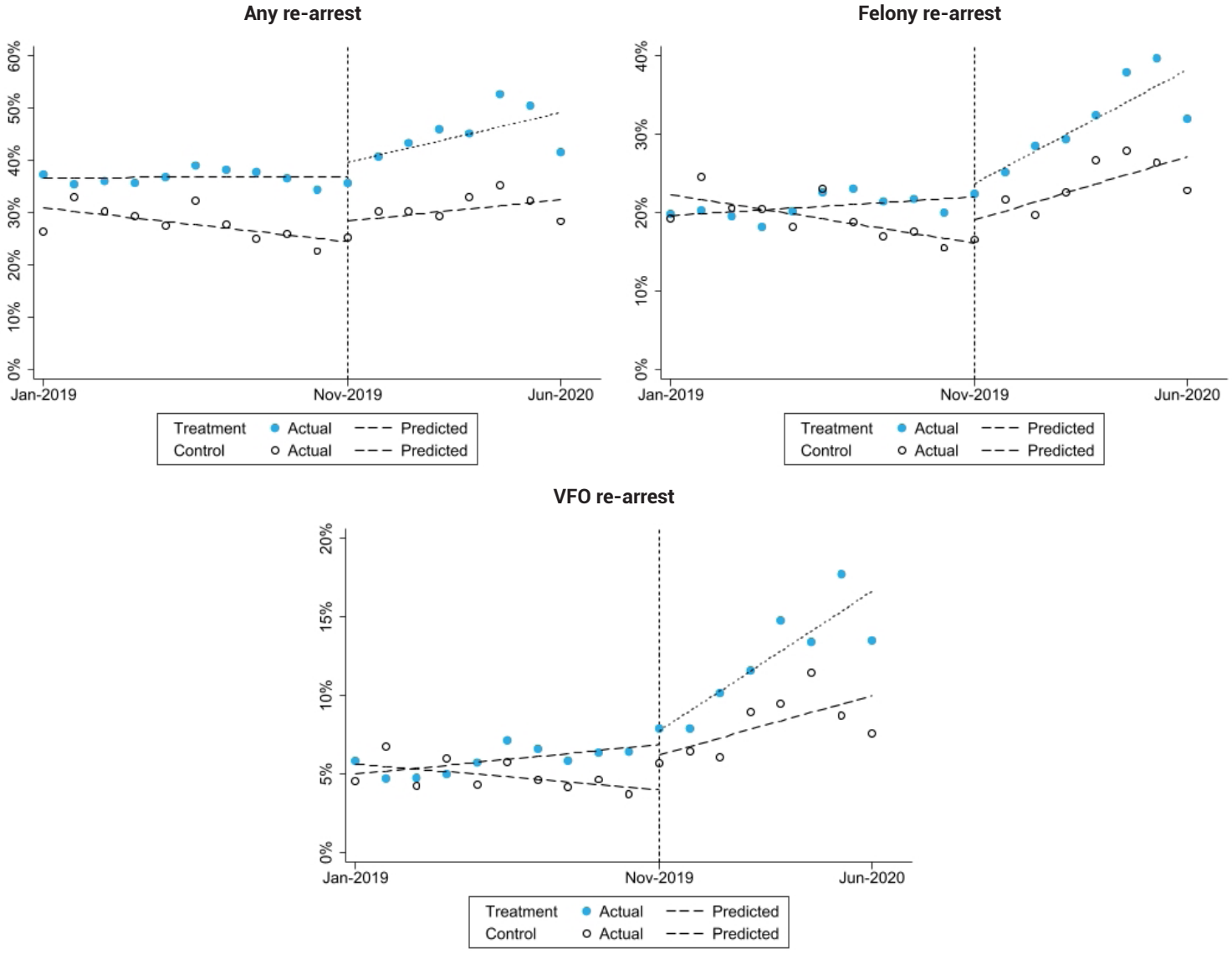
Table 3.8 and Figure 3.4 show that post-reform, there were statistically significant increases within the groups for felony re-arrest and violent felony re-arrest. However, the difference in post-intervention trends was statistically significant only for violent felony re-arrest (t = 2.04, p = .05).

Table 3.8
Controlled-Interrupted Time Series Models: Pretrial Recidivism Within 6 Months Among the Subgroup

	Coef.	Std. Err.	*t*	*p*-value	95% Confidence Interval	
Any Re-Arrest						
Treatment	1.36	.90	1.51	.14	-.49	3.21
Control	.59	.55	1.07	.29	-.54	1.71
Difference	.78	1.06	.74	.47	-1.39	2.94
Felony Re-Arrest						
Treatment	2.08	.64	3.26	**.00**	.77	3.38
Control	1.16	.48	2.40	**.02**	.17	2.14
Difference	.92	.80	1.15	.26	-.72	2.56
VFO Re-Arrest						
Treatment	1.27	.26	4.88	**.00**	.74	1.81
Control	.54	.25	2.19	**.04**	.04	1.05
Difference	.73	.36	2.04	**.05**	.00	1.47

Note: *p*-values shown in bold indicate statistical significance.

Figure 3.4
Controlled-Interrupted Time Series Models
Pretrial Recidivism Within 6 Months Among the Subgroup



Chapter 4.
Conclusion and Limitations

This study used a controlled-interrupted time series design to assess the impact of New York's original bail reform law on recidivism. Effective from January 2020 to June 2020, the initial reform imposed limits on judges' discretion to set bail solely depending on the type of offense charged at arraignment. By dividing individuals into treatment and control groups based on bail eligibility, we were able to estimate not only whether recidivism increased following the reform, but also whether there was a greater increase for those charged with an offense that became ineligible for bail under the new law.

Overall, we found that eliminating discretion to set bail for select charges, mostly misdemeanors and non-violent felonies, was not associated with a system-wide change in either two-year or pretrial recidivism in either direction.[30] However, when the analysis was narrowed to "high-risk" individuals with a pending criminal case, we found an increase approaching statistical significance in violent felony recidivism within two years, and a statistically significant increase in pretrial violent felony recidivism. These results were consistent with previous work showing that New York's bail reform law was not associated with an increase in recidivism in general, but only among certain "high-risk" individuals.[31]

It is important to note that the July 2020 bail law amendments expanded discretion in a way that has already allowed judges to set bail for a substantial portion of people arraigned with a pending case. Specifically, the so-called harm-to-harm provision permits bail if the current charge and an earlier pending charge are found to involve "harm to an identifiable person or property.[32] DCJ's prior research has shown that policy changes narrowly tailored to such "high risk" individuals were associated with a small recidivism reduction.[33]

Study Limitations

There are several caveats to this study to keep in mind. First, our analysis focused exclusively on the impact of the law's charge-based bail eligibility requirement. Eliminating bail for certain charges was clearly the most significant component of the reform law. However, the legislation also included a range of other provisions that might have affected recidivism rates for both the treatment and control groups, such as making the availability of pretrial supervision universal and the requirement to set the "least restrictive" release condition to ensure that a person returns to court. Though our study design did not allow for a rigorous evaluation of these other provisions, it is possible that some of the post-reform recidivism increases within the treatment and control groups that we found were attributable to these changes.

Second, it is important to note that this study did not isolate the effect on specific individuals of actually setting bail, but rather the elimination of discretion to set bail based on offense type. The advantage of this approach was that it allowed us to evaluate the system-wide effect of the new rule as applied by judges in New York City. However, it means that our findings partly reflect how discretion in bail-setting was exercised before reform and where possible after (e.g., judges often released people both before and after reform even on cases where they had the option to set bail).

Finally, although our research design accounted for factors affecting both treatment and control groups equally (e.g., changes due to Covid-19), potential confounding from factors that could have affected the groups differently cannot be entirely ruled out.

Future Research on New York's Bail Reform and Recidivism

- **Upstate Recidivism Studies**: Two forthcoming reports will extend the first analysis of the Bail Reform and Recidivism Series as well as the current study to Upstate New York.

- **Longer-Term Follow-Up**: The final report of the series will examine the recidivism impact for cases whose release decision was likely impacted by bail reform over a longer tracking period, both in New York City and Upstate New York.

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30 While DCJ's previous research showed that bail reform led to a decrease in recidivism in the subset of cases likely to have bail set, it is possible that the low rates of bail-setting in this broader population made it difficult to detect this effect in the current study.

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The Data Collaborative for Justice (DCJ) at John Jay College of Criminal Justice houses a group of research initiatives that raise important questions and share critical research about the criminal justice system and its role in creating safe, just, and equitable communities. DCJ conducts data analysis and research on enforcement in the community, the adjudication of cases in the courts, and the use of confinement in jails and prisons. DCJ's work has informed policy reforms, facilitated partnerships between researchers and government agencies across the country, spurred new scholarly research on lower-level enforcement, and has been cited extensively in the press. For more information about the Data Collaborative for Justice please visit: https://datacollaborativeforjustice.org/.