

HFG RESEARCH AND POLICY IN BRIEF

Is Bail Reform Causing an Increase in Crime?

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Executive Summary

In response to widely voiced criticism that monetary bail imposes an unfair burden on poor defendants, many of whom remain in jail because they are unable to acquire the money for bail, numerous jurisdictions — cities, counties, and states — have enacted changes in pretrial practices and policy intended to reduce or eliminate the use of bail.

Although under long-established practices and policies most defendants required to post bail eventually do so, critics of these reforms contend that they endanger the public by allowing arrestees to remain at liberty while awaiting trial, leading to substantial increases in crime.

To assess these arguments, we considered eleven bail-reform jurisdictions to determine the effect, if any, of these policy changes on crime. Violent crime trends after reforms present no clear or obvious pattern in these jurisdictions. In six places, violent crime decreased in the year after reforms. In all these instances, it decreased more than the national average did in that year, or it decreased while the national average increased. In four jurisdictions, violent crime increased while the national average decreased in the same year. And in one place, violent crime increased but less than the national average did.

In four cases — Cook County (Chicago), Harris County (Houston), Philadelphia, and New Jersey — information was available that allowed us to determine with reasonable precision changes in the number of property and violent crimes or criminal charges between the year before reforms and the year after; we could also evaluate the proportion of any such changes attributable to defendants released pre-trial in the year after reforms. Because after reform a larger proportion of defendants were released, making the overall pool of released defendants larger, releasees were responsible for a greater number of criminal charges filed in these jurisdictions than were the prereform releasees. However, the charges attributed to the additional released defendants accounted for just .4 percent (four-tenths of one percent) to 3.2 percent of all cases charged, and the vast majority of new charges were non-violent in nature.

In summary, neither violent nor nonviolent crimes or charges increased markedly immediately after jurisdictions implemented bail reform. Proper policy analysis requires that the very slight crime increases attributable to released defendants be weighed against the well-documented negative consequences that inhere in the experience of being held in jail. These include the risk of losing employment, housing, and custody of children as well as the use for bail of money that might otherwise be used for the necessities of life by the defendant and their family. Finally, arrestees held in jail for any length of time are — compared to those with the same charge and equivalent records who are

released immediately—more likely to be convicted and, once released, both less likely to show up for trial and more likely to be re-arrested before trial.

Our analysis suggests that reducing pretrial detention and eliminating money considerations from decisions about detention have had minimal negative effects on public safety. Once the adverse effects of pretrial detention are taken into consideration, these reforms may, on balance, improve the well-being of communities most impacted by crime.

INTRODUCTION

Nearly 68 percent of people held in local jails are awaiting trial.¹ That means that on any given day, the large majority of people in jail—nearly half a million people—are not yet convicted of a crime; rather, they are incarcerated pending the outcome of their cases.² The number of people who pass through jails each year, however, is much higher. In most years, more than ten million people enter local jails after an arrest,³ generally staying for brief periods of a few hours or days.⁴

The purposes of pretrial detention, broadly speaking, are to protect the community and ensure attendance at court hearings. Some people accused of crimes may be too dangerous to be in the community while their criminal cases are resolved. Others, if released, may pose an unacceptable risk of flight from prosecution. As a practical matter, however, most people in pretrial detention are there for a third reason, not closely related to dangerousness or risk of flight: they are being “held on bail,” meaning that they *could* be released at any time, but only if they were able to post a certain amount of money.

This system, in which pretrial detention is routinely imposed and pretrial release must be “bought” with a bail payment, disparately impacts poor and minority defendants, many of whom remain in jail simply because they cannot afford to pay. Critics of monetary bail maintain that most people currently held pretrial pose little or no threat, either of harming anyone or evading prosecution, and can safely be released without being required to post bail.

In light of these critiques, several jurisdictions have recently taken steps to restrict the use of pretrial detention and/or reduce or eliminate the use of monetary bail as a condition of pretrial release. “Bail reform,” the umbrella term for these efforts, has taken many forms, but in the past few years a

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- 1 This estimate relies on reports produced by the Prison Policy Institute and the Bureau of Justice Statistics. See Wendy Sawyer and Peter Wagner, *Mass Incarceration: The Whole Pie 2022*, Prison Policy Institute, 2022, <https://www.prisonpolicy.org/reports/pie2022.html>; Todd D. Minton and Zhen Zeng, *Jail Inmates in 2020—Statistical Tables*, Bureau of Justice Statistics, 2021, <https://bjs.ojp.gov/content/pub/pdf/ji20st.pdf>. Sawyer and Wagner estimate the total jail population in 2022 to be 658,000, with 445,000 of these inmates not convicted of a crime; thus, 67.6 percent were detained pretrial. Minton and Zeng estimate the total jail population in 2020 to be 549,100, with 380,700, or 69.3 percent, not convicted. Prior to 2020, however, 64–65 percent of those held in local jails were unconvicted.
 - 2 Determining the actual number of people detained on an “average” day is difficult. The Bureau of Justice Statistics *Census of Local Jails* determines the number of people in local jails on the last weekday in June of each year; however, this number is generally lower than the estimated average daily population of local jails. For example, in 2020, the jail population in June was 549,100 but the 2020 average daily population was estimated at 658,100 (Minton and Zeng, Table 1 [see note 1]).
 - 3 The number of people processed through and held in jails has fallen over the past decade. From 2010 to 2020, annual admissions to jails in the U.S. decreased steadily from almost thirteen million in 2010 to just under nine million in 2020; between 2015 and 2019, however, roughly 10.5 million people were admitted to local jails each year. Between 2010 and 2020, the number of people in jail on any given day also decreased, ranging from just under 750,000 in 2010 to just under 550,000 in 2020 (Minton and Zeng [see note 1]). Much of that decrease can be attributed to the overall drop in crime and arrests that occurred through 2020. Between 2010 and 2019—the year before the onset of the COVID-19 pandemic—the violent crime rate in the United States fell 9.3 percent, and the property crime rate fell 28 percent (Federal Bureau of Investigation, *Crime in the United States*, 2019, Table 1, <https://ucr.fbi.gov/crime-in-the-u.s/2019/crime-in-the-u.s.-2019/topic-pages/tables/table-1>). The estimated number of arrests in the United States during that time period fell 23 percent, from 13.12 million in 2010 to 10.08 million by 2019 (data for 2019, Table 29, <https://ucr.fbi.gov/crime-in-the-u.s/2019/crime-in-the-u.s.-2019/tables/table-29>; data for 2010, Table 29, <https://ucr.fbi.gov/crime-in-the-u.s/2010/crime-in-the-u.s.-2010/tables/10tbl29.xls>).
 - 4 The average length of stay in local jails in 2020 was twenty-seven days (Minton and Zeng [see note 1]).

total of eight states—Alaska, Connecticut, Maine, Nebraska, New Mexico, New Jersey, New York, and most recently Illinois—have moved in this direction, either significantly limiting the use of monetary bail, curtailing the use of pretrial detention for less serious offenses, or both. And several prominent local jurisdictions—including Cook County (Chicago); Harris County (Houston); Philadelphia; Mobile, Alabama;⁵ New Orleans; and San Francisco—took similar steps.

Some have welcomed these developments, considering the reductions in pretrial detention to be long overdue. But others—including many district attorneys, police departments, and the commercial bail industry—counter that pretrial reform is putting communities at risk. Critics of bail reform argue that decreasing pretrial detention will lead to increases in crime rates. As one piece of evidence, they point to the fact that, at the same time jail populations were decreasing as a response to the spread of COVID-19,⁶ violent crime across the United States increased.⁷

Does reducing pretrial detention and eliminating money considerations from pretrial release decision-making make us less safe? To investigate a possible relationship between bail reform and crime, we examine bail reform efforts and crime rates in eleven jurisdictions.⁸ In all eleven, we examine changes in crime levels in the year immediately after reforms to estimate how much reforms may have impacted crime. In four jurisdictions, we use existing evaluations to estimate the proportion of crime accounted for by individuals released pretrial.

THE ORIGINS AND RECENT HISTORY OF BAIL REFORM

Bail reform is nothing new.⁹ In 1961, the Vera Institute of Justice’s Manhattan Bail Project launched a wave of bail reform across the United States.¹⁰ In the early 1960s, researchers from the Vera Institute developed an experiment with magistrate judges to see if defendants could be released from jail

5 In Alabama, seventy-eight cities eliminated bail for misdemeanors.

6 See Jacob Kang-Brown, Chase Montagnet, and Jasmine Heiss, *People in Jail and Prison in Spring 2021*, Vera Institute of Justice, 2021, <https://www.vera.org/downloads/publications/people-in-jail-and-prison-in-spring-2021.pdf>. The COVID-19 pandemic also forced many jurisdictions to rethink their use of pretrial detention. At the start of the pandemic, jails were seen as dangerous places because of the potential spread of the virus in enclosed, crowded conditions. Many local jurisdictions considered new ways to keep people out of jail. Between 2019 and 2020, jail populations decreased 24 percent nationally. Most of this decrease was driven by a drop in pretrial populations. In several jurisdictions, the decrease in the jail population was more pronounced. In New York State, for example, the jail population dropped nearly 33 percent; in Colorado, it dropped 45 percent.

7 Annual national crime and arrest estimates are available on the FBI’s Crime Data Explorer site, <https://cde.ucr.cjis.gov>.

8 Table 1 summarizes bail reforms in thirteen jurisdictions. However, in two cases—Maine and Nebraska—reforms occurred so recently that national crime estimates were not available to assess their possible impact on crime numbers. Our analysis thus covers eleven cases.

9 Although nonmonetary forms of bail (such as pretrial release if the defendant agrees to abide by certain conditions) exist, the movement to reform bail pertains to the requirement to post a cash bail before release. In this report, therefore, we generally use just “bail” to refer to what is variously termed “cash bail,” “money bail,” or “monetary bail.”

10 Jerome E. Miller, “Introduction to the Manhattan Bail Project,” *Federal Sentencing Reporter* 24, no. 1 (2011): 8–9.

without having to post bail. Using an evidence-based predictive formula to determine which defendants would likely return for trial, magistrates released defendants on their own recognizance (ROR)—in other words, released defendants without requiring them to pay bail. An evaluation of the project showed that the large majority of defendants released without having to post bail returned for trial, suggesting that the use of bail could be eliminated or radically reduced. The findings from the Vera study led to the Federal Bail Reform Act in 1966, which created a presumption of release without bail in federal court and required federal judges to set release conditions appropriate to risk of flight;¹¹ similar reforms were enacted at the state and local levels.¹² An era of decreased use of bail and pretrial detention followed, lasting through the 1990s.

Between 1970 and 1990, roughly 50 percent of people held in local jails were awaiting trial rather than serving a sentence.¹³ Beginning in the 1980s, however, the United States experienced a surge of tough-on-crime approaches to public safety, including a more aggressive judicial response to violent crime and a more cautious approach to bail and pretrial release. As a result, the use of bail and pretrial detention increased. In 1985, just 127,000 people were held pretrial on an average day; by 1995, this number had increased to 284,000, a 124 percent increase. Arrests during this period increased just 26 percent—indicating that the increase in the number of people held pretrial was driven largely by bail practices.¹⁴ By 2005, 62 percent of people in jail were being held pretrial. And, as mentioned above, today nearly 68 percent of those in local jails—nearly 445,000 people each day—are awaiting trial.

Recent bail reform efforts mirror those of the early 1960s—the presumption of release on recognizance for many defendants, the elimination or reduction in the use of bail, and the increased use of prediction tools that assess risk of failure to appear and risk to public safety. Some of these are large-scale, statewide reforms and others are more focused, local reforms. This report focuses on those jurisdictions that created a presumption of release without financial conditions, or eliminated bail for some set of offenses, or both. It does not include jurisdictions that *only* adopted risk-assessment tools to guide release decisions without any other reforms, because of uncertainty as to whether such a step alone was intended to reduce, or would have the effect of reducing, the number of people held pretrial.

¹¹ In 18 U.S.C. §§ 3146-52 (Supp. IV, 1969).

¹² Alexa Van Brunt and Locke E. Bowman, "Toward a Just Model of Pretrial Release: A History of Bail Reform and a Prescription for What's Next," *Journal of Criminal Law and Criminology*, 108, no. 4 (2018): 701-774.

¹³ Bureau of Justice Statistics, *Annual Survey of Jails* (multiple years).

¹⁴ During 1985 there were a total of 11.78 million arrests in the United States, compared to 14.87 million in 1995. Office of Juvenile Justice and Delinquency Prevention, *Statistical Briefing Book*, <https://www.ojjdp.gov/ojstatbb/crime/ucr.asp?table.in=2>.

TYPES OF RECENT BAIL REFORMS

The bail reforms we consider here, enacted since 2017, were adopted through a variety of mechanisms—including court order, municipal ordinance, prosecutorial policy, statewide legislation, and state constitutional amendment. But all fall into one or more of the following rough categories:

- *Reforms creating a presumption of release without bail without eliminating the possibility of bail*
In Cook County, Illinois, for example, a judicial order issued by the Office of the Chief Judge created a rebuttable presumption of release without bail for all defendants. A Nebraska state law created a similar presumption for the lowest-level misdemeanors.
- *Reforms prohibiting unaffordable bail*
The Cook County court order cited above also required judges, when they do set bail amounts, to consider a defendant's ability to pay. The citizens of New Mexico went further, approving a 2016 constitutional amendment that prohibited judges from imposing bail amounts that people could not afford.
- *Reforms eliminating bail for some offenses*
This category takes in a broad range of reforms, from narrow to sweeping. Local ordinances in many Alabama jurisdictions, including Mobile and Montgomery, prohibit imposition of bail in misdemeanor cases. A state law in Connecticut and a court rule enacted in response to a federal consent decree in Harris County, Texas, do the same for most misdemeanors. New Orleans eliminated bail for ordinance violations. The Philadelphia district attorney adopted a formal policy against seeking bail in cases involving any of twenty-five specified misdemeanor and low-level felony offenses. The district attorney in San Francisco announced that the office would not seek bail for any offense. Beginning in 2017, New Jersey eliminated the use of bail except in very limited circumstances. A 2020 New York law prohibited imposing bail or pretrial detention in most cases involving misdemeanors or nonviolent felonies. Alaska briefly abolished bail for all offenses in 2018, mandating release where indicated by a risk-assessment tool; the law was amended within months, and repealed the following year. Although the reform has not yet gone into effect, and is not included in our analysis, Illinois will similarly eliminate bail in all cases in 2023.

WHAT HAS BEEN THE IMPACT OF BAIL REFORM ON VIOLENT CRIME?

As varied as the reforms described in Table 1 are, they have one thing in common: they reduced the overall use of pretrial detention in the jurisdictions where they were adopted, enabling more people

TABLE 1. BAIL REFORM JURISDICTIONS

Jurisdiction	Reform Date	Reform Source	Reform Type	Scope of Reform	Offenses Covered
Alabama	2017 ¹⁵	Local ordinances	Elimination of bail	Seventy-eight municipalities eliminated bail for misdemeanors.	Misdemeanors
Alaska¹⁶	January 2018	Legislation	Elimination of bail	Requires mandatory pretrial release or detention based on a defendant's score under a statewide risk-assessment tool.	Misdemeanors and felonies
Connecticut	July 2017	Legislation	Elimination of bail	Prohibits courts from imposing bail in misdemeanor cases except in limited circumstances, including family violence crimes or if the court makes a finding that the defendant is a likely risk of failure to appear in court, will obstruct justice or intimidate a prospective witness or juror, or will engage in conduct that threatens the safety of themselves or another person.	Misdemeanors
Cook County, IL	October 2017	Judicial rule	Presumption of release without bail	Creates a presumption of release without bail for all defendants and requires judges to consider a defendant's ability to pay when setting monetary bond amounts.	Misdemeanors and felonies
Harris County, TX	June 2017	Injunction, court rule	Elimination of bail	A preliminary injunction issued in a federal civil rights lawsuit limits the use of bail for misdemeanors. Pursuant to a consent decree later filed in the same case, the county enacted a rule eliminating bail for most misdemeanors. The rule requires all individuals arrested for misdemeanors to be released with unsecured bail amounts initially set at no more than \$100, except for those arrested and charged for protective order or bond condition violations, misdemeanor assault, terroristic threat, or a second offense of driving while intoxicated.	Most misdemeanors
Maine	July 2021	Legislation	Elimination of bail	Eliminates bail for the lowest-level misdemeanors and requires bail commissioners, judges, and prosecutors to consider defendants' employment, care-giving responsibilities, and medical care needs in setting bail amounts for all other offenses.	Nonviolent misdemeanors

¹⁵ Municipalities adopted reforms at different points in 2017.

¹⁶ This reform lasted only six months; in June 2018, the legislature amended the law to allow judges to impose bail regardless of risk score. In July 2019, the state repealed the initial bail reform law.

Jurisdiction	Reform Date	Reform Source	Reform Type	Scope of Reform	Offenses Covered
Nebraska	August 2020	Legislation	Presumption of release without bail	Creates a presumption of release without bail for the lowest-level misdemeanors. Individuals charged with Class IIIA, IV, or V misdemeanors or violations of city or county ordinances are presumed to be released on their own recognition or under other conditions of release without monetary bond, except defendants a) charged with intimate partner violence or DUI, b) determined to have failures to appear in the previous six months, c) arrested pursuant to a warrant, or d) determined by a judge to be at risk for failing to appear at trial or jeopardizing the safety and maintenance of evidence. The reform also requires judges to “consider all methods of bond and conditions of release to avoid pretrial incarceration” for defendants charged with other offenses.	Low-level misdemeanors
New Jersey	January 2017	Legislation	Elimination of bail	Eliminates the use of bail in nearly all cases, making pretrial holding decisions dependent on the defendant’s risk of flight or risk to public safety. Unless the defendant is charged with murder or an offense that carries a sentence of life imprisonment, there is a presumption of release without bail. The prosecutor must make a formal motion requesting detention, which may be granted by the judge; in limited instances, judges may still impose bail as a condition of release.	Noncapital felonies and misdemeanors
New Mexico	January 2017	Constitutional amendment	Restrictions on use of bail, prohibition on unaffordable bail	Prohibits judges from imposing bail amounts that people cannot afford and allows the release of many low-risk defendants without monetary bond. Defendants who are neither a danger to public safety nor a flight risk may not be jailed pending trial solely for lack of ability to pay. Under court rules interpreting the amendment, money bonds are allowed only when needed to assure court appearance.	Misdemeanors and felonies
New Orleans, LA	January 2017	Local ordinance	Elimination of bail	Eliminates bail for city ordinances. Under the provisions, people charged at the city’s Municipal Court with nonviolent crimes (e.g., animal cruelty, assault, criminal trespassing, disturbing the peace, criminal property damage) must be released without bail.	Ordinance violations

Jurisdiction	Reform Date	Reform Source	Reform Type	Scope of Reform	Offenses Covered
New York ¹⁷	January 2020	Legislation	Elimination of bail	Eliminates the use of bail and pretrial detention for most misdemeanors and many nonviolent felonies and prohibits judges from considering public safety when making release decisions. Under the provisions, judges must order release on recognizance unless the defendant poses a risk of flight, in which case the judge must impose the least restrictive conditions necessary to ensure the defendant appears at trial.	Most misdemeanors and nonviolent felonies
Philadelphia, PA	February 2018	Prosecutor policy	Elimination of bail	Prohibits prosecutors from requesting bail in cases involving any of twenty-five misdemeanor and low-level felony offenses. Under the rule, assistant district attorneys are prohibited from seeking bail for defendants charged with designated offenses and must request that defendants be released on their own recognizance.	Twenty-five specified misdemeanor and low-level felony offenses
San Francisco, CA	February 2020	Prosecutor policy	Elimination of bail	Prohibits seeking bail in all cases. The policy relies on a risk-assessment tool to determine which defendants pose a threat to public safety and seeks to have them preventively detained before trial.	Misdemeanors and felonies

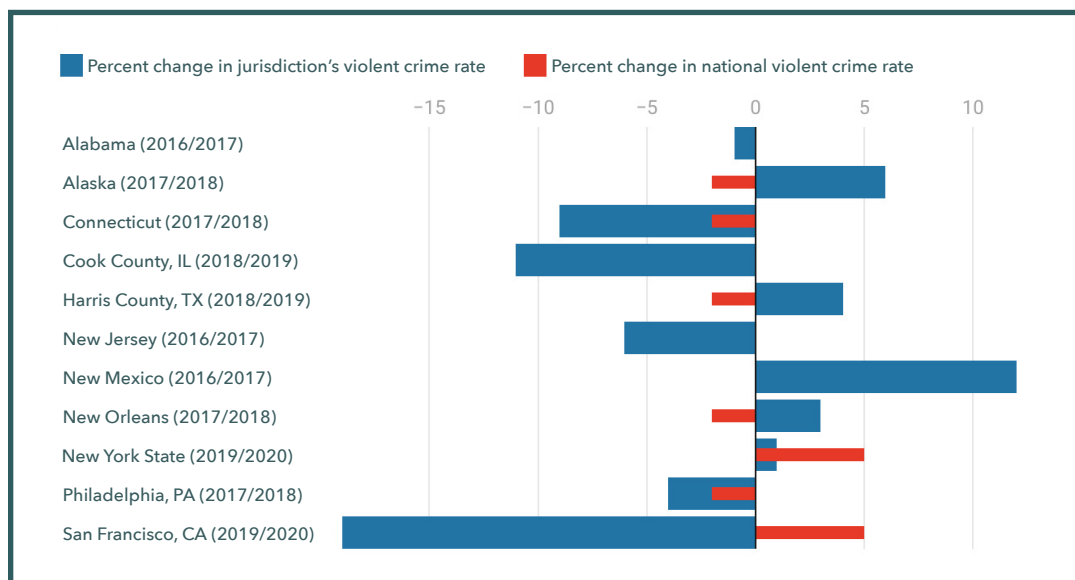
to live in the community while their criminal charges were processed. They did so by making it either somewhat harder to put someone in jail pretrial or, by reducing or eliminating financial barriers to release, somewhat easier for those detained to get out. In this report, we undertake to explain what happens to crime when pretrial detention is reduced. Does crime increase, as critics of bail reform would predict? And in particular, do we see more crimes of violence, as more defendants are released into the community?

Unfortunately, few of these recently enacted bail reforms have been directly evaluated in these terms. One thing we can say, looking at violent crime trends across all the reform jurisdictions, is that no clear or obvious pattern emerges (see Figure 1). In six jurisdictions, violent crime decreased in the year after reforms. In all of these instances, it decreased more than the national average did in that year or decreased while the national average increased. In four jurisdictions, violent crime increased while the national average decreased in the same year. And in one place, violent crime increased but less than the national average did.

¹⁷ In July 2020, the law was amended to reduce the number of offenses ineligible for bail and pretrial detention, but the restrictions remained intact for many offenses.

Of course, many factors drive crime trends, and it is not possible to say what part, if any, bail reform measures may have played. Moreover, in some of the jurisdictions studied, the postreform measurement period coincided with the onset of the COVID-19 pandemic, which had its own impact on violent crime rates in the United States. So simple before-and-after comparisons are limited in how much they can illuminate the impact of bail reform. We might have expected to see a more consistent pattern of increased violence across reform jurisdictions if it were true that there is a positive link between bail reform and violent crime. Still, the absence of such a pattern does not prove that such a relationship does *not* exist.

FIGURE 1. PERCENT CHANGE IN VIOLENT CRIME IN THE TWELVE MONTHS AFTER BAIL REFORM



Numbers in parentheses represent the years before and after implementation of reform used to compare change in violent crime; for example, in Cook County, the numbers represent change in violent crime from 2018 to 2019. Maine and Nebraska are excluded since national crime estimates the year after reforms were unavailable for comparison.

WHAT DO WE KNOW THAT CAN SHED LIGHT ON THE IMPACT OF BAIL REFORMS?

Critics of bail reform maintain that by causing an increase in the number of people released before trial, reforms have resulted in a greater number of crimes. Many make the stronger assertion that reforms have caused substantial increases in crime.

Of the thirteen cases of bail reform in Table 1, we found formal evaluations that help to shed light on these claims in four jurisdictions: Cook County, Harris County, Philadelphia, and New Jersey. These evaluations help us better understand the impact of reforms on the total number of additional

defendants released pretrial due to the reforms, the rates of criminal activity of defendants released before and after the reforms, and the total number of additional crimes committed by those additional defendants released due to the reforms. They also allow us to estimate the fraction of all crimes in the year after the reforms that were committed by these additional defendants and the contribution of the crimes committed by them to the overall change in the crime level—whether it grew or declined—at each site in the year after reforms.

Cook County, Illinois

As noted above, bail reform efforts in Cook County followed a 2017 judicial order creating a presumption of release without bail for all defendants and a requirement that judges consider a defendant’s ability to pay when setting bail amounts.

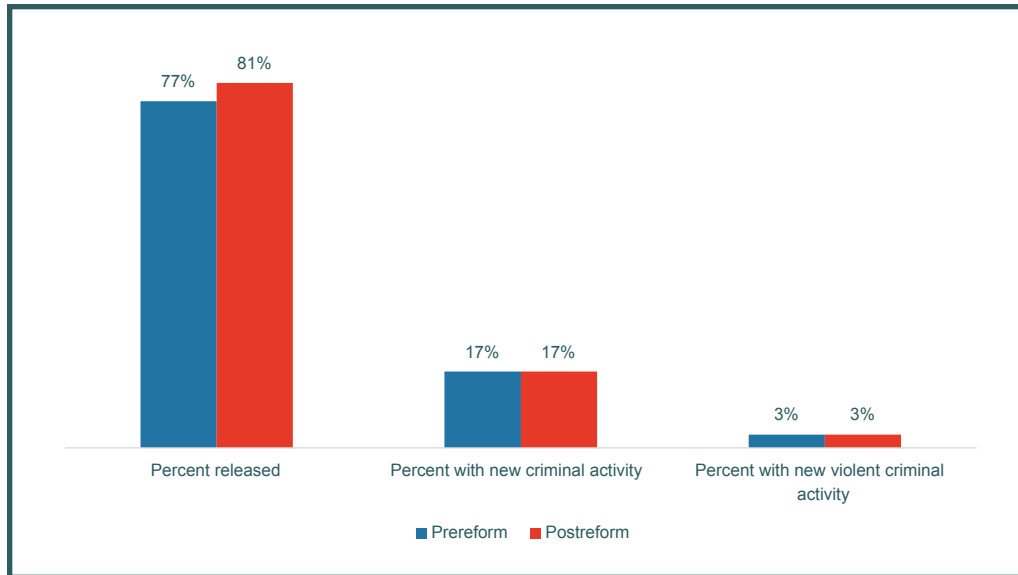
These reforms slightly increased the percentage and number of felony defendants released pretrial. In the six months before the reforms went into effect, roughly 77 percent of felony defendants were released pretrial—either through release on recognizance or through bail. About 81 percent were released in the six months after the reforms were implemented.¹⁸ To make this concrete, of the 11,300 defendants with an initial bond court hearing in the six months after the reforms, 8,700 would have been released if the reforms had not been enacted and roughly 9,200 actually were released. Thus five hundred *additional* defendants were released in the six months after the reforms, or an estimated one thousand additional defendants in the first year.

Failure rates in Cook County remained the same after reforms. Both before and after reforms, roughly 17 percent of defendants were charged with any new offense within twelve months of release and 3 percent of defendants were charged with a new violent offense. This might be expected, since the reforms did not markedly change the percentage or type of defendants released pretrial—they simply changed *how* people were released; the large majority of defendants—57 percent—did not have to post bail to secure release after the reforms, compared to 26 percent of defendants before the reforms.

Some have argued that the reforms in Cook County increased crime. Specifically, critics argue that, although the percentage of released defendants charged with new offenses remained stable, because more people were released after reforms, more crime was committed by the pool of released defendants. Based on charge statistics, this appears to be true—17 percent of those one thousand additional released defendants were charged with a new crime, representing 170 additional charges in the first year after reforms; 3 percent were charged with a new violent crime, representing thirty additional violent charges in the first year after reforms.

¹⁸ Don Stemen and David E. Olson, *Dollars and Sense in Cook County: Examining the Impact of General Order 18.8A on Felony Bond Court Decisions, Pretrial Release, and Crime* (Chicago: Loyola University Chicago, 2020). These estimates control for defendant and case characteristics that may affect bond decisions and release.

FIGURE 2. COOK COUNTY – THE IMPACT OF BAIL REFORM ON RELEASE AND NEW CRIMINAL ACTIVITY



These additional charges account for a very small proportion of all arrests in the year after reforms. In 2018 — the year after reforms were implemented — there were 47,767 arrests for index crimes or drug crimes¹⁹ in Cook County, including 5,041 arrests for violent index crimes.^{20, 21} The 170 charges by the thousand additional defendants released pretrial accounted for just 0.4 percent — four-tenths of one percent — of these total arrests; the subset of thirty violent charges by these additional defendants accounted for just 0.6% of violence arrests.²²

TABLE 2. COOK COUNTY – THE IMPACT OF BAIL REFORM ON CRIME IN THE FIRST YEAR AFTER REFORMS

Additional defendants released	Additional arrests of defendants released	Additional arrests for violence of defendants released	Total index/drug arrests reported in year after reforms	Total arrests for violence reported in year after reforms	Released defendants’ contribution to total arrests	Released defendants’ contribution to total arrests for violence
1,000	170	30	47,767	5,041	0.4%	0.6%

¹⁹ Index crimes include murder, rape, aggravated battery, robbery, burglary, theft, motor vehicle theft, and arson; drug crimes include both possession and delivery/manufacture.

²⁰ Violent Index crimes include murder, rape, aggravated battery, and robbery.

²¹ Cook County Index Offense data retrieved from https://isp.illinois.gov/StaticFiles/docs/CrimeReporting/cii/cii18/CII_18_Section_I_Index_Crime.pdf.

²² The 170 defendants charged with new crimes and the subset of thirty defendants charged with violent crimes include all offenses, not only the more serious index crimes. Of these 170 defendants charged with new crimes, sixty were charged with drug-law violations, which are not counted among index crimes. If these drug-law violations are excluded, then 0.4 percent (110/23,895) of the index crimes were accounted for by the additional defendants released pretrial.

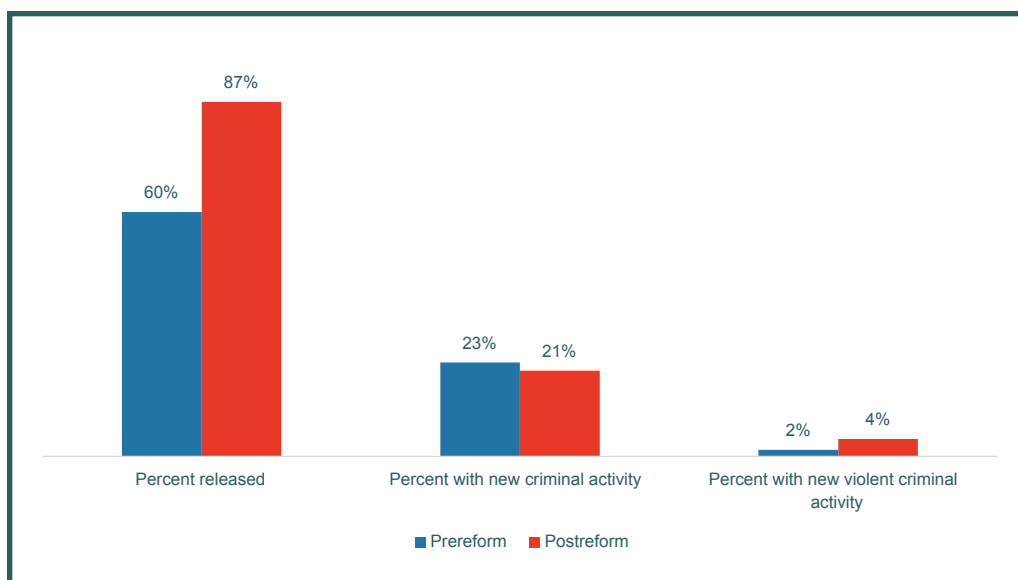
Overall, the number of arrests for index and drug offenses in Cook County increased slightly between 2017 and 2018, from 47,637 arrests in 2017 to 47,767 arrests in 2018—an increase of 130 arrests. The thousand additional defendants released pretrial accounted for 170 arrests in 2018; thus, without these releases, we might have expected the number of arrests to decline by forty.

Harris County, Texas

In Harris County, bail reform started under a 2017 injunction that limited the use of bail for misdemeanors and was solidified in a 2019 judicial rule that requires that those arrested for almost any misdemeanor be released with unsecured bail amounts initially set at no more than \$100.²³

These reforms markedly increased the percentage and number of misdemeanor defendants released pretrial. In 2016, one year prior to the initial injunction, roughly 60 percent of misdemeanor defendants were released pretrial; in 2017, the first year after the injunction, about 75 percent were released. Following the implementation of the judicial rule in 2019, roughly 87 percent of misdemeanor defendants were released pretrial. Thus, release rates jumped from 60 percent to 87 percent over four years. This means that of the 52,209 misdemeanor defendants with an initial bond hearing in the year after the 2019 reforms, 31,325 would have been released if the reforms had not been enacted (based on 2016 release numbers); about 45,422 were actually released. Thus, 14,097 *additional* misdemeanor defendants were released in the year after the 2019 reforms.²⁴

FIGURE 3. HARRIS COUNTY – THE IMPACT OF BAIL REFORM ON RELEASE AND NEW CRIMINAL ACTIVITY



²³ As noted above, the only exceptions to this rule are those arrested and charged for protective order or bond condition violations, misdemeanor assault, terroristic threat, or a second offense of driving while intoxicated.

²⁴ Brandon L. Garrett et al., *Monitoring Pretrial Reform in Harris County: Third Report of the Court-Appointed Monitor*, 2021, p.33.

Rates of arrest of released defendants for overall criminal activity decreased slightly after reforms; however, rates of arrest for violent crimes increased. Roughly 23 percent of defendants released in 2016, before reforms, were charged with a new offense within twelve months of the initial filing date; this decreased to 21 percent in 2019, after reforms. However, prior to reforms, just 1.6 percent of released defendants were charged with a new violent offense within twelve months of release; after reforms, 4.2 percent were charged with a new violent offense.

Although the percentage of released defendants charged with any new offense in Harris County changed little, as in Cook County, because more people were released after reforms, more total crime appears to have been committed by the pool of released defendants. Twenty-one percent of the 14,097 additional people released in Harris County were charged with a new crime, representing 2,960 additional cases in the first year after reforms; 4.2 percent were charged with a new violent crime, which represents 592 additional cases in the first year after reforms.

These additional charges account for a very small proportion of all cases charged in the year after reforms. In 2019—the year after reforms were implemented—there were 93,101 felony and misdemeanor cases charged and 24,232 violent felony and misdemeanor cases charged.²⁵ The 2,960 cases charged against the additional defendants released pretrial accounted for 3.2 percent of all felony and misdemeanor cases charged; the 592 additional violent cases accounted for 2.4 percent of all violent felony and misdemeanor cases charged.

The number of all criminal cases charged in Harris County decreased between 2018 and 2019, from 95,377 to 93,101—a decrease of 2,276 cases. The 14,097 additional defendants released pretrial accounted for 2,960 cases in 2019; thus, without these releases, we might have expected the number of cases to decline even more—by as many as 5,236 cases.

TABLE 3. HARRIS COUNTY—THE IMPACT OF BAIL REFORM ON CRIME IN THE FIRST YEAR AFTER REFORMS

Additional defendants released	Additional cases charged against released defendants	Additional cases involving violence charged against released defendants	Total cases charged in year after reforms	Total cases involving violence charged in year after reforms	Released defendants' contribution to total cases charged	Released defendants' contribution to total cases involving violence charged
14,097	2,960	592	93,101	24,232	3.2%	2.4%

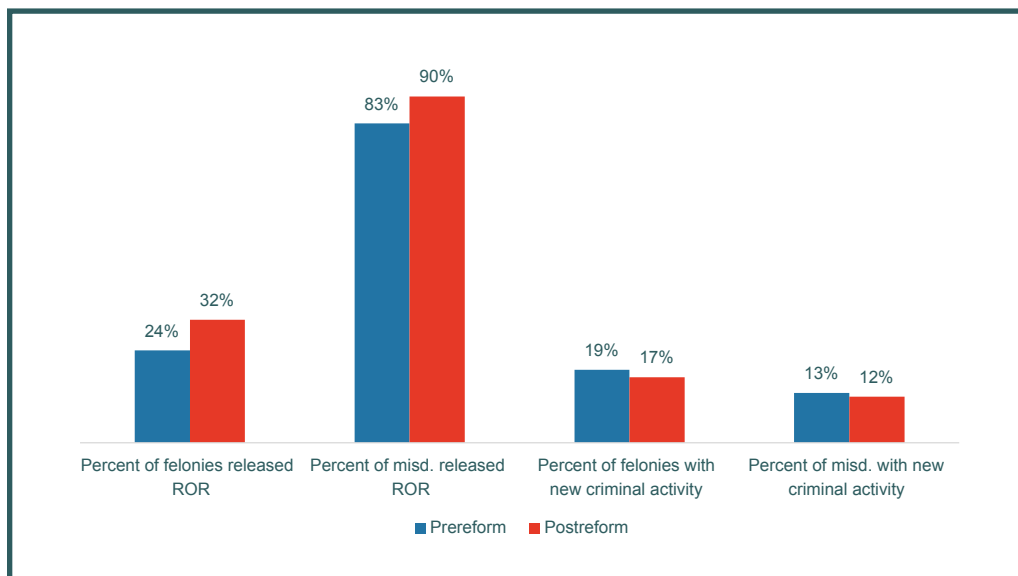
²⁵ Harris County Index Offenses retrieved from <https://jad.harriscountytexas.gov/Data>. The data provided by Harris County does not categorize cases as “violent.” For the current study, we categorized as violent all felony and misdemeanor cases filed for homicide, assault, sex offenses, human trafficking, and robbery.

Philadelphia, Pennsylvania

Bail reform in Philadelphia consisted of a 2018 policy adopted by the Philadelphia district attorney (DA) not to seek bail for twenty-five specific misdemeanor and low-level felony offenses.

This change substantially increased the percentage and number of felony and misdemeanor defendants released on recognizance. From 2014 to 2017, roughly 83 percent of misdemeanor defendants and 24 percent of felony defendants charged with offenses specified in the DA's policy were released without bail; in the first year after the policy was in place, roughly 90 percent of eligible misdemeanor defendants and 32 percent of eligible felony defendants were released.²⁶ To put this in perspective, of the 19,810 defendants with an initial bond court hearing in the first year after the reforms, roughly 11,070 would have been released without bail if the reforms had not been enacted (based on 2017 release percentages for each offense category); however, roughly 12,815 defendants were released that year. Thus, 1,745 *additional* defendants were released without bail in the year after the reforms.²⁷

FIGURE 4. PHILADELPHIA – THE IMPACT OF BAIL REFORM ON RELEASE AND NEW CRIMINAL ACTIVITY



²⁶ Aurélie Ouss and Megan Stevenson, “Does Cash Bail Deter Misconduct,” (working paper, 2019), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3335138; Oren M. Gurr, Michael Hollander, and Pauline Alvarado, *Prosecutor-Led Bail Reform: Year One*, Office of the Philadelphia District Attorney, 2019, <https://medium.com/philadelphia-justice/prosecutor-led-bail-reform-year-one-transparency-report-76574546049c>.

²⁷ Gurr, Hollander, and Alvarado (see note 26). The report states that 1,745 additional defendants received ROR in the year after reforms. We used tables provided in the Appendix to the report to determine the actual number of people receiving ROR in 2018 and subtracted 1,745 from it to determine the number of people who would have been released if 2017 rates had persisted. The report itself does not provide these numbers.

Total charges for criminal activity among released defendants decreased slightly after the reforms. Before the reforms, roughly 13 percent of misdemeanor defendants and 19 percent of felony defendants were charged with a new offense within four months of original charging; this decreased to 12 percent of misdemeanor defendants and 17 percent of felony defendants after reforms.

It is more difficult to estimate the total number of additional cases charged against individuals released after the reforms were enacted in Philadelphia, since the evaluations do not break down the total number of released defendants by felony or misdemeanor status; rather, the report simply provides the total number of defendants released. One way to estimate the number of additional charges (combined property and violent) postreform would be to assume that the entire pool of 1,745 releasees had the higher 17 percent rate of new charges evinced by released felony defendants. This upper-limit estimate would yield 297 cases. In 2018, the year after reforms were implemented, there were 32,364 cases charged in Philadelphia.²⁸ The estimated 297 additional cases charged against released defendants would make up less than 1 percent of all cases charged. If we instead attribute to all released defendants the 13 percent new-charge rate of released misdemeanants—which is probably a more defensible approach, given that they were almost certainly the larger fraction of the pool of all those released—then the estimate of new charges in the total pool is 227 rather than 297, or 0.7 percent of all cases charged.

TABLE 4. PHILADELPHIA—THE IMPACT OF BAIL REFORM ON CRIME IN THE FIRST YEAR AFTER REFORMS

Additional defendants released	Additional cases charged against released defendants	Total cases charged in year after reforms	Released defendants' contribution to total cases charged
1,745	297	32,364	0.9%

Overall, the number of cases charged in Philadelphia decreased between 2017 and 2018, from 38,625 to 32,364—a decrease of 6,261 cases. If, as just proposed, we assume that the 1,745 additional defendants released pretrial accounted for 297 cases in 2018; then without these releases we might have expected the number of cases charged to decrease even more—by 6,558 rather than 6,261 cases. If we assume the released defendants were charged with only 227 crimes, then the projected overall decrease without bail reform would be 6,488.

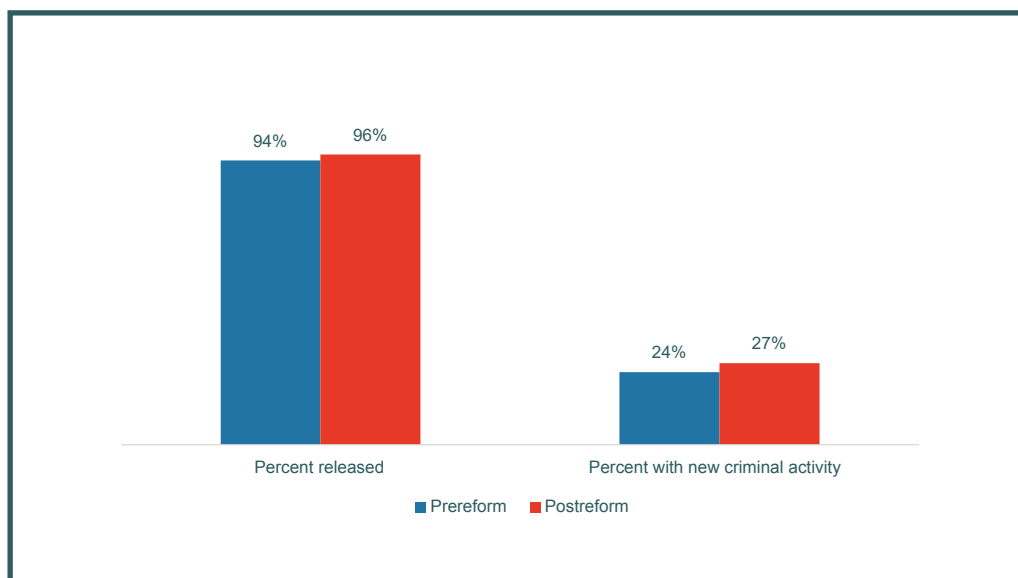
²⁸ Philadelphia District Attorney's Office *Public Data Dashboard*, https://data.philadao.com/Charge_Report_YE.html.

New Jersey

Bail reforms in New Jersey involved legislation eliminating bail in nearly all cases. Under the reforms, the determinants of whether a defendant will be held pretrial are the defendant's risk of flight or risk to public safety, followed by a prosecutor's formal recommendation and then a judge's decision to detain.

New Jersey reforms slightly increased the percentage and number of defendants released pretrial. Roughly 94 percent of defendants were released pretrial in the years before the reforms went into effect at the start of 2017; some 95.6 percent were released in the year after the reforms were implemented.²⁹ Of the 138,763 defendants charged in 2017, 130,437 would have been released if the reforms had not been enacted; the actual number released in the year after reforms was roughly 132,657, an additional 2,220.³⁰ The reforms thus did not markedly change the number of people released in the state, just *how* they were released: the large majority of defendants—98,473, or 71 percent—were released through a summons by law enforcement after the reforms, compared to just 54 percent released via summons before reforms.

FIGURE 5. NEW JERSEY – THE IMPACT OF BAIL REFORM ON RELEASE AND NEW CRIMINAL ACTIVITY



²⁹ Defendants can be released either through a summons in which law enforcement releases a defendant with a notice to appear in court or through release on recognizance (ROR) or bail set by a judge at a bond hearing. Glenn A. Grant, *2018 Report to the Governor and the Legislature*. New Jersey Judiciary, 2019, p. 19. The comparison year in the NJ evaluation is 2014, several years before the reforms went into effect. <https://pceinc.org/wp-content/uploads/2019/11/2018cjrannual.pdf>

³⁰ Glenn A. Grant (see note 29), p. 18. These numbers are estimates based on reported number issued a summons or warrant. As such, they may not be the exact numbers of individuals released.

Rates of charges for criminal activity of those released increased slightly after the reforms. Before the reforms, roughly 24.2 percent of defendants released pretrial were charged with a new offense while on pretrial release, compared to 26.9 percent of defendants released after reforms.³¹

As in the other jurisdictions, although the percentage of released defendants in New Jersey charged with new offenses did not change substantially, because more people were released after reforms, more crime was committed by released defendants. Of those 2,220 additional people released pretrial after reforms, the 26.9 percent who were charged with a new crime meant 597 additional charged crimes in the first year after reforms.

Yet, also as in other jurisdictions, these additional charges account for a very small proportion of all cases filed in the year after reforms. In 2017, the year after reforms were implemented, there were 138,765 cases charged in New Jersey. The 597 additional cases against defendants released pretrial accounted for 0.4 percent of all cases charged in the state. (New Jersey courts did not report comparable information for years prior to 2017, so it is not possible to determine the change in the number of cases filed between the pre- and postreform years.)

TABLE 5. NEW JERSEY – THE IMPACT OF BAIL REFORM ON CRIME IN THE FIRST YEAR AFTER REFORMS

Additional defendants released	Additional cases charged against defendants released	Total cases charged in year after reforms	Released defendants' contribution to total cases charged
2,220	597	138,763	0.4%

CONCLUSION

Based on our analysis, it seems safe to say that increases in the number of people released pretrial due to bail reforms led to additional crimes. However, evaluations in Cook County, Harris County, Philadelphia, and New Jersey show that this increase is small. The crimes attributed to the additional defendants released under bail reforms accounted for just 0.4 percent to 3.2 percent of all arrests or cases charged in these jurisdictions in the years after reforms. And, in Cook County, one of the two reform jurisdictions for which information on both violent and nonviolent arrests is available, released defendants appear to have contributed few additional violent crimes — accounting for just thirty additional arrests for violence in the year after reforms, or 0.6 percent of all arrests for violence.

³¹ Glenn A. Grant (see note 29), p. 13. Criminal activity includes both indictable offenses and disorderly persons offenses.

In Harris County, released defendants accounted for 592 additional charges in violent cases, or 2.4 percent of all violent cases charged.

Across the eleven jurisdictions with recent bail reform efforts, violent crime trends after reforms present no clear or obvious pattern. In six jurisdictions, violent crime decreased in the year after reforms, and in five jurisdictions violent crime increased. To repeat, these simple before-and-after comparisons can only tell us so much, but they do tell us one thing—neither violent nor nonviolent crime increased markedly immediately after jurisdictions implemented bail reform.

This finding suggests that bail reform and crime are not strongly linked. This should not be surprising, because, as we see across the four evaluations discussed above, bail reform does not markedly increase the number or percentage of people released pretrial. Rather, it generally changes only *how* people are released, by eliminating the requirement that they post bail. The widely held assumption that monetary bail systems protect the public by keeping dangerous people behind bars is unfounded. Large percentages of defendants are released pretrial where bail reform has *not* occurred—they just have to pay money for the privilege of being released.

As this makes clear, the costs of bail reform—in terms of the apparent impact on crime—are minimal. However, the costs of monetary bail and pretrial detention—in terms of the impact on individuals and their families—are high. In Cook County alone, bail reforms saved defendants and their families \$31.4 million in avoided bail costs in the first six months after reforms were implemented; the large majority of those avoided bail costs—\$27.7 million, or 88 percent—would have come from communities of color.³² That is money that defendants and their families could use for housing, food, and medical expenses, and it is money that stayed in communities most affected by crime. Defendants who are unable to post bail and who must remain in detention incur further costs—they can lose their jobs, housing, or custody of their children. Thus, ending cash bail reduces real financial and personal costs for defendants, their families, and their communities.

As well, being held in pretrial detention can impact the outcome of cases. Pretrial detention, even for short periods of time, increases a defendant's likelihood of being convicted of a crime; this is largely due to an increase in defendants' likelihood of pleading guilty.³³ It also increases their likelihood of receiving a sentence of incarceration in jail or prison and of receiving a longer sentence of incarceration;³⁴ thus, being detained increases a defendant's chances of being *further* detained.

³² Stemen and Olson (see note 18).

³³ Christopher Lowenkamp, *The Hidden Costs of Pretrial Revisited*, Arnold Ventures, 2022, <https://craftmediabucket.s3.amazonaws.com/uploads/HiddenCosts.pdf>.

³⁴ Lowenkamp (see note 33).

Moreover, being detained might also increase a defendant's likelihood of being rearrested pretrial;³⁵ in other words, pretrial detention might actually increase crime — paradoxically causing the thing that it is intended to avoid.


In sum, reducing pretrial detention and eliminating money considerations from decisions about detention have had minimal negative effects on public safety. Once the adverse effects of pretrial detention are taken into consideration, these reforms may, on balance, improve the well-being of communities most impacted by crime.

³⁵ Lowenkamp (see note 33).

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