

Pretrial Incapacitation Duration Impacts the Odds of Recidivism among Unreleased Bond-Eligible Defendants

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Abstract

In the United States criminal defendants are generally subject to a detention hearing following arrest. At this hearing, a judge determines whether the defendant is eligible for release prior to trial and bail is set accordingly. In most cases, defendants are released prior to adjudication (i.e., pretrial), yet often, bail is set and the defendant remains in jail until adjudication or s/he is held for an extended duration prior to pretrial release. Whether the duration of pretrial is empirically tethered to the odds of subsequent offending for those otherwise eligible for release, net of other effects, remains unclear. Relying on data from the population of defendants in Dallas County, Texas, this study assessed whether the pretrial jail duration impacted the likelihood of recidivism (re-arrest) among bond-eligible defendants who remained in jail from arrest through disposition, rather than being released pretrial. Theoretical and policy implications are discussed.

Introduction

Upon being arrested for a set of criminal charges in the United States, criminal defendants are brought before a court for an initial court appearance and arraignment. At this appearance, a judge or magistrate determines under what conditions, if any, pretrial release might be secured. The vast majority of those arrested are released prior to trial and in many cases, the release is tied to specific conditions, ranging from a promise to reappear before the court to GPS monitoring. In most U.S. states, the amount of bail sets the stage for financially secured methods of pretrial release (e.g., a cash bond, commercial bail bond, property bond, etc.). However, a defendant may be unable or unwilling to post a financially secured bond and ultimately is released via a non-financially secured bond (e.g., via a pretrial services agency). Courts may also choose to release a defendant via an unsecured personal bond, commonly referred to as release on recognizance, which is secured solely by the defendant's promise to reappear before the court at a later date. A scenario less commonly the topic of research involves defendants who are not released pretrial, remaining in jail for the duration of the pretrial component of the trial process.³ Some of these defendants are bond-eligible while others are not. Bond-eligible *unreleased* defendants represent a serious burden to the justice system, yet they are rarely the focus of empirical evaluation.⁴

Augmented duration of pretrial incarceration is problematic for the reasons that: a) it is quite costly, and b) it may have harmful cascading effects over time that impact on the odds of recidivism in addition to limiting pro-social reintegration back to society. For example, in Dallas County, Texas, which is a very large metropolitan jurisdiction, the costs associated with each night in jail exceeds sixty-dollars per defendant (Dallas County, Texas Adult Criminal Justice Data). Larger jail populations such as this routinely exceed 6,000 inmates. Assuming 6,000 inmates at the above cost metric, the county spends over 360 thousand dollars-per-day on jail bed days alone (or \$131.4M per year). Justice administrators responsible for jail populations are acutely aware of these costs and actions are routinely taken to reduce the jail population.

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³ In other cases, a court may subject a defendant to a pretrial diversion program, or even a form of probation prior to adjudication.

⁴ Such defendants would fall into a small number of categories including but not limited to: (a) they are truly indigent (i.e., unable to secure financial release due to lack of funds), (b) unaware of their eligibility for financial release, or (c) elect to remain in jail.

The ability to adjust the jail population based on technicalities is intriguing for the fact that justice administrators are in control of the money spent on pretrial justice, which potentially plays a role in the continuity of offending behaviors. Understanding whether, and for whom, such adjustments are beneficial could lead to substantial cost savings in terms of jail operations as well as reductions in criminality. The goal of the present study was to assess whether pretrial jail duration, in and of itself, impacts the likelihood of re-arrest among bond-eligible defendants *post*-release in one large jurisdiction. The rationale for focusing on bond-eligible pretrial detainees is that justice systems can readily adjust policy to remove them from the system (e.g., release on recognizance). Again, during this phase of the justice process, these individuals are unconvinced and also eligible for release prior to trial. Should further research find that jail duration alone matters in this regard and for this group of defendants, and there is no justifiable reason to maximize pretrial detention, the implications for justice policy would be impactful, practical, relatively easy to implement. Such would also result in a speedy reduction in unnecessary justice spending.

Before presenting a review of the relevant background literature, it is important to provide an overview of the pretrial release process and the mechanisms of pretrial release (i.e., bonds) specific to the state of Texas, as the data for this study were drawn from that state. It is also important to emphasize that for some type of bonds, there is inter-jurisdictional variation in both availability of the mechanism, as well as fidelity of deployment. As a reminder, this study is specific to those defendants who were bond-eligible (i.e., bond was set), but remained in jail prior to standing trial. In Texas, after an individual is arrested and booked on a set of charges, the arresting officer presents the case to the designated magistrate judge for an initial appearance that typically involves the setting of a bond amount (i.e., a dollar amount required for pre-trial release to ensure court appearance at a later date). At this stage, prosecutors and defense attorneys are typically not involved and the magistrate judge often sets the bail based on a "Recommended Bond Schedule," that considers the nature of charge/s and the criminal history of the defendant.

Release on recognizance. For less serious charges and those involving a defendant with little or no official criminal history, a defendant may be released on a personal recognizance bond (i.e., released by a signed promise to appear in court on a specified date) or have their bail set at a relatively low rate, allowing for an eased path toward financially secured bond (e.g., a cash bond or a commercial bail bond).

Release via pretrial services. Other low-risk defendants may be assessed by a public pretrial services agency and if deemed appropriate, released at little to no upfront cost, but perhaps with conditional supervision (e.g., required check-ins, GPS monitoring, etc.). In such cases, the pretrial services agency has responsibility to ensure reappearance. For more serious offenses, bail may be set high (e.g., > \$20,000) and at times can exceed one million dollars. In other cases, bail is denied altogether.

Release via a financially secured bond. Following the resolution of any challenges, if the option for release is granted, a defendant may choose to secure a legal bond for release, if able, either on their own (i.e., a cash bond) or through the use of a bail-bond company (i.e., a surety bond wherein the defendant pays the bail bond company 10%-20% of the set amount of bail as a fee). For financially secured methods of pretrial release, the funds required for release are returned to the defendant or to the bonding company, less court costs, upon the defendant's adjudication. In many cases, particularly those involving violent offenses or repeat offenders, where bail may be set high, defendants may be unable to gather requisite funds via a surety or otherwise and, as a result, remain in pretrial detention (Paulsen, 1966).

Remaining in jail pretrial while bond eligible. There are multiple reasons why a bond eligible defendant might remain in jail, pretrial. A defendant may be unable to access cash required, directly or otherwise, to secure financial bond for any number of reasons (i.e., truly indigent). Alternatively, he or she may be perceived as too risky by a commercial bond company or may not qualify for pretrial services release. In other situations, a defendant does not secure a pretrial release bond of any type, though he or she is eligible, perhaps even in a situation of relatively low bail.

A defendant who perceives conviction as likely, or knows that he/she will plead guilty and will be sentenced, may elect to remain in jail understanding that credit for time served in jail (pretrial) will be applied to a subsequent jail sentence. Another possibility is that a defendant may prefer to spend as much of their sentence at the local jail as possible as opposed to post-conviction transfer to a prison (which may be located in a remote part of the state).⁵

⁵ Holmes et al. (1987) found that those with private counsel were more likely to bond out. However, this may be explained by considering that if a defendant can afford private counsel, they are likely able to afford bond.

In other cases, there is the potential that an attorney communicates to the defendant a likely sentence of probation upon conviction and the defendant chooses to remain in jail with the hope of a disposition, if found guilty, with credit for time served in lieu of a probation sentence that could last multiple years and poses the risk of revocation. Whatever the reason, there is a sizable defendant population remaining in jail pretrial for no other reason than personal choice or an inability to access the cash to secure a financial bond.

It is important to understand the impact from the duration of pretrial incapacitation as there may be cases where time in jail, and no other factor, aggravates the odds of re-arrest. In such cases, it would behoove justice administrators to expedite release for some defendants in order to avoid unnecessary costs associated with jail duration. The following section provides a review of relevant literature on the effects of incapacitation, pretrial detention, and their links with reoffending.

Background Literature

Empirical findings specific to the affect of incapacitation on recidivism have been mixed. A considerable volume of studies have found that increased exposure to incapacitation is positively related to recidivism (Beck and Shipley, 1989; Chen and Shapiro, 2007; Cullen, Jonson & Nagin, 2011; Dejong, 1997; DiTella & Schargrodsky, 2013; Jonson, 2010; Freeman, 1992; Gendreau, Goggin, Cullen, and Andrews, 2000; Langan and Levin, 2002; Pager, 2003; Travis, 2005).

Other studies report that the relationship between incapacitation time and re-offending to be weak or null (Gottfredson, 1998; Loeffler, 2013; Smith & Akers, 1993; Turner, Peterson, and Petersilia, 1986; Sampson & Laub, 1993; Weisburd, Waring & Chayet, 1995). Nagin, Cullen, & Johnson (2009) suggest the evidence is weak because of the relative paucity of studies reporting statistically significant findings. Beyond these mixed findings, virtually every study focuses exclusively on post-conviction incapacitation, leaving much unknown about the link between pretrial incapacitation and recidivism. However, several studies have addressed varying components of pretrial incapacitation.

Many pretrial detention studies focus on disparities across demographic factors (e.g., race, gender, and employment status) between those defendants who await adjudication behind bars and those that are out on bond during the pretrial period (Demuth, 2003; Frieburger, Marcum & Pierce, 2009; Holmes et al., 1987; McIntyre & Baradaran, 2013; Schlesinger, 2005). Focusing exclusively on drug offenders, Freiburger et al. (2009) found that black defendants were more likely to be detained pretrial and females, though not found to be released more often than males, received lower bail amounts and those who were employed were more likely to be released.

Other studies have considered how pretrial detention and length of sentence are related (Free, 2004; Goldkamp, 1980; Holmes, Daudistel, & Farrell, 1987; Oleson et al., 2014; Philips, 2012; Sacks & Ackerman, 2014; Tataro & Sedelmaier, 2009; Williams, 2003). Williams (2003) specifically focused on the link between pretrial detention and sentence severity, ultimately finding a positive relationship. The author stratified a sample of defendants between those who were released before the disposition of their case, and those that remained detained prior to disposition. This is important because decisions that go into detaining an individual without bond (dangerousness or risk of committing further crimes for example) may be highly correlated with sentencing decisions that consider the dangerousness and severity of the crime.⁶

More aligned with the present study, the Arnold Foundation released a report that discussed the relationship between pretrial detention and any criminal activity following the disposition of the offender's state court case—see Lowencamp, VanNostrand, and Holsinger (2013) (hereinafter LJAF study). The report explored whether there was a relationship between the length of that pretrial detention and recidivism (LJAF study, 2013). New criminal activity post-disposition (NCA-PD) for 153,000 defendants was reviewed and analyzed over twelve- and twenty-four-month periods via logistic regression models. The findings of the LJAF study concluded that offenders detained during their pretrial period were more likely to re-offend, thus finding a positive relationship between jail duration and offending (Lowencamp et al., 2013). The authors found a linear relationship between duration and recidivism up until 31 days of detention (when it reached that length of time, the relationship was no longer statistically significant).

⁶ It is important to note that in 2011, Cadigan and Lowencamp examined the relationship between an offender's pretrial status and their success in post-conviction supervision which is related to a study on the relationship between pretrial detention and recidivism.

The LJAF (2013) study considered differences in NCA-PD for low, moderate, and high-risk offenders, finding that the relationship between NCA-PD and pretrial detention was greatest among the low-risk group.⁷ One notable limitation of the LJAF study was that the authors did not differentiate between defendants who were eligible for bond but remained incarcerated and those offenders who were detained by the magistrate or state court judge without the possibility of being released on bond. This unexamined difference matters because the reasons for the continued detention could play a significant role in the likelihood of recidivism. For example, a court typically detains a defendant without the possibility of bail only when the court has determined that the defendant poses a very high risk of fleeing, is a significant danger to the community, or has already violated pre-existing conditions of release. These factors also are tied to re-offending in their own right. For example, offenders who are held because of an increased likelihood of absconding often lack ties to the conventional community (Daly, 1994).

In fact, the lack of ties to the community is often how the court determines whether a defendant is a flight risk. Specific deterrence research suggests that those who lack ties are less likely to be specifically deterred from re-offending (Nagin, 1988; Paternoster et al., 1983; Tittle, 1977; Tobey, 1957). Thus, a defendant detained because of his/her lack of ties to the community is very different from a defendant detained simply because he lacks the financial resources to post the required bond.

In all, there is shortage of sound empirical research on the affect of pretrial detention among those who are otherwise eligible for bond despite calls for research. For instance, Loeffler (2013) acknowledges “[p]retrial incarceration, easily could produce adverse effects for the subsequently sentenced offender that would dwarf any additive effects of eventual imprisonment” (p. 158). He goes on to say that “this possibility is worthy of additional research because the effects of short periods of pretrial incarceration and post-conviction imprisonment have not been analyzed extensively” (p. 158). In response, this study focused solely on the individuals who are bond-eligible but remain detained nonetheless, in terms of an impact on recidivism from jail duration. Relying on data from the population of defendants in Dallas County, Texas, this study assessed whether the pretrial jail duration impacts the likelihood of recidivism (re-arrest) among bond-eligible defendants who remain in jail from arrest through disposition.

Methods

Data

The data utilized in the present study were culled from archived criminal justice records made accessible by Dallas County, Texas. These data were supplemented by data provided by the Texas Department of Public Safety (DPS). The data are represented by all defendants booked into the Dallas County Jail at any point during 2008. Within these data were details regarding the arrest histories of each individual (as an adult), jail book-in details, socio-demographic information specific to each defendant, biological details, detailed court records, and other features important to the pretrial component of justice (e.g., bond information). As the goal here was to isolate the effect of jail duration, net of other correlates of recidivism, we specified a focal arrest representing the initial book-in for a charge (or set of charges) wherein the defendant had not been previously arrested, ultimately marking the stage in the criminal justice process following arrest for a new set of (accused) criminal offense/s ($n = 20,019$). Through this approach, we were able to track the justice process for a specific set of charges for each bond-eligible defendant and identify those not released pretrial ($n=2,923$).

Outcome Variables

The primary outcome measure we consider in this study is recidivism, defined by re-arrest for any new offense following release from jail. Risk began immediately after release. Here, recidivism was assessed categorically (1 = recidivism; 0 = did not recidivate) at six, twelve, and eighteen months, respectively.

Independent Variables

The focal independent variable here was the duration, measured in days, for which a defendant was incapacitated prior to standing trial for a set of criminal charges. Jail days was assessed as a continuous metric as well as categorically. The continuous measure of jail days was truncated to a maximum of 150 days (the 95th percentile) and then log transformed to adjust for a positive skew.

⁷ There was no unique count of individuals in the Arnold Foundation study. One offender may have been re-arrested multiple times.

By and large, most defendants among this group spend only a few days in jail pretrial, however, a sizable portion spend a considerable number (even months) incapacitated while awaiting trial (mean = 18 days), though they are eligible for pretrial release without supervision. In separate analyses, the categorical metric (i.e., dummy variables) was used. Jail days was categorized into 1 to 3, 4 to 7, 8 to 14, 15 to 30, and more than 30-day groupings. This categorization protocol mirrors that of the Arnold Foundation study referenced above.

Control Variables

A host of legal and extralegal features were used as covariates. One important feature was utilized to distinguish between varying paths that bond-eligible unreleased defendants might be exposed through during the justice process. Upon facing a court while still technically incapacitated, a defendant may be released via one of several protocols that may or may not involve a formal disposition. In some cases, a defendant is found guilty and is immediately released for time already served in jail (credit for time served).

Alternatively, a judge may choose to release an individual by “order of the court” prior to disposition, after he or she has served time incapacitated. Judges may also choose to subject a defendant to a probation department, prior to disposition (i.e., not a probation sentence, *per se*). In other instances, defendants were found guilty and sentenced to further (i.e., concurrent) jail sentences and released after the conclusion of that sentence having not been released since the time of arrest. Finally, a bond-eligible defendant’s case may be disposed of if he or she is found guilty or not guilty and not subject to further supervision or jail time. This latter category serves as the reference category of release mechanism for analyses, where applicable.

Also controlled for were the charge type/s leading to incapacitation (dummy coded as person, property, drugs, DWI, or other [reference category]), whether the defendant was charged with a felony (felony = 1; misdemeanor = 0), the number of arrests on record prior to the focal arrest, the defendant’s race/ethnicity (dummy coded as white, black, Hispanic, other [reference]), whether the defendant reported being married at the time of arrest (yes = 1, no = 0), whether a mental evaluation was on file with the jail (yes = 1, no = 0), the age of the defendant at the time of arrest (in years), and the defendant’s gender (male = 1, female = 0). Descriptive statistics for each of the above outlined measures are presented in Table 1.

Table 1 : Descriptive Statistics (n=2,923)

Variable	Mean	Std. Dev.	Min	Max
<i>Recidivism</i>				
Any	0.70	0.458	0	1
Within 6 months	0.46	0.499	0	1
Within 12 months	0.56	0.496	0	1
Within 18 months	0.60	0.490	0	1
Jail Duration	18.94	36.648	1	876
<i>Type of Release in 2008</i>				
Jail Sentence	0.27	0.445	0	1
Rel. on Probation	0.11	0.307	0	1
Credit	0.08	0.276	0	1
Rel. Before Disp.	0.30	0.458	0	1
<i>2008 Criminal Charge</i>				
Person	0.02	0.144	0	1
Property	0.24	0.429	0	1
Substance	0.29	0.453	0	1
DWI	0.17	0.373	0	1
Other	0.46	0.498	0	1
Priors arrests	3.73	4.103	0	29
Felony	0.18	0.381	0	1
Prior conviction	0.58	0.494	0	1
<i>Demographic Characteristics</i>				
Hispanic	0.24	0.425	0	1
Black	0.49	0.500	0	1
White	0.27	0.442	0	1
Married	0.18	0.384	0	1
Mental	0.24	0.426	0	1
Age	29.58	10.552	17	75
Male	0.80	0.399	0	1

Analytical Procedure

This study examined the relationship between pretrial jail duration (jail days) among bond-defendants and subsequent re-arrest at six, twelve, and eighteen months, respectively. In assessing the jail days effect, a series of logistic regression models were estimated, the results of which are presented in the following sections.⁸

RESULTS

Overall, our results suggest a positive relationship between the number of days spent in pretrial incarceration and recidivism, net of other important correlates of recidivism. Seventy percent of bond-eligible offenders who were detained pre-trial recidivated within a twenty-four-month period following their release. Of those, over 45% were rearrested within the first six months, while 60% recidivated within 18 months. The average time spent in jail prior to trial among bond-eligible was approximately 19 days.

⁸ An assessment of a correlation matrix and VIF statistics indicated no presence of multicollinearity.

Table 2 presents the results of a series of logistic regression models predicting any recidivism. Note that the results have been adjusted, removing the model intercept parameter in order to compare the jail duration categories without a reference category. The results are bifurcated between the two separate operationalization methods of jail duration (Model 1 for the metric measurement and Model 2 for the discretized metric). The results suggest that the number of days spent incarcerated prior to trial (“jail days”) positively influences the odds of recidivism, net of other effects.⁹ More specifically, the results suggest that among this group of defendants, any time spent in jail beyond 3 days had a positive impact on the odds of recidivism. Within these categories, time in jail beyond one month was found to have the strongest impact on recidivism. Other statistically significant findings were in their expected direction.

Table 2: Logistic Regression Results for “Any” Recidivism

Variable	Model 1		Model 2	
	Coef.	Std. Err.	Coef.	Std. Err.
Jail Sentence	0.05	.108	0.10	.107
Release on Probation	0.39*	.178	0.44**	.176
Credit	0.87**	.219	0.90**	.220
Rel. Before Disp.	-0.01	.119	-0.03	.120
Person	0.45	.343	0.44	.342
Property	0.60**	.125	0.60**	.126
Substance	0.19	.109	0.19	.109
DWI	0.64**	.129	0.64**	.130
Prior Arrests	0.13**	.015	0.13**	.015
Felony	-0.23	.128	-0.21	.127
Prior Jailing	0.24*	.096	0.23*	.096
Hispanic	0.23	.385	0.24	.386
Black	0.48	.381	0.49	.381
White	0.46	.385	0.47	.385
Married	-0.23*	.118	-0.21	.118
Mental Illness	0.38**	.116	0.37**	.116
Age	-0.05**	.005	-0.05**	.005
Male	0.36**	.114	0.38**	.115
Jail Days (log)	0.29**	.042	--	--
Jail Days 1 - 3	--	--	0.53	.418
Jail Days 4 -7	--	--	0.87*	.425
Jail Days 8 - 14	--	--	1.32*	.430
Jail Days 15 - 30	--	--	1.09*	.439
Jail Days 31 +	--	--	1.69**	.445

* $p < 0.05$; ** $p < 0.01$, two-tailed

The results for the three-time specific outcome measures – recidivism within six months, twelve months, and eighteen months represented in Table 3 (control variable effects not shown in order to save space). The number of days in jail was statistically significant for recidivism at 12- and 18-months post release, net of other effects, but not for the 6-month outcome. This effect was similar in magnitude across each operationalization of recidivism.

⁹ Overall, the model was statistically significant ($p < 0.001$).

Table 3: Logistic Regression Results for Recidivism within 6, 12, and 18 months(covariates omitted)

Variable	Within 6 Months		Within 12 Months		Within 18 Months	
	Coef.	Std. Err.	Coef.	Std. Err.	Coef.	Std. Err.
Jail Days 1 - 3	-0.44	0.409	0.39	0.412	0.69	0.421
Jail Days 4 -7	-0.14	0.414	0.61	0.417	0.87*	0.427
Jail Days 8 - 14	0.45	0.416	1.19**	0.421	1.50**	0.431
Jail Days 15 - 30	0.22	0.425	0.96*	0.429	1.28**	0.439
Jail Days 31 or more	0.59	0.425	1.58**	0.432	1.80**	0.443

* $p < 0.05$; ** $p < 0.01$, two-tailed

Discussion

The purpose of this study was to examine the relationship between pretrial jail duration and recidivism among a particular group of defendants who were eligible to be released from jail prior to trial, but are not due to an inability or choice not to post bond. Pretrial jail duration was found to play a significant role in increasing the likelihood of recidivism among those remaining in jail more than 3 days. This effect held after controlling for many important correlates of recidivism and across multiple categorizations of recidivism and jail duration. In sum, and short of inferring causality, these findings suggest that pretrial jail duration in excess of three days for unreleased bond eligible defendants tends to increase the odds of recidivism.

Theoretical Implications

Several theories help to explain why pretrial incarceration is tied to increased recidivism. This form of punishment (pretrial incarceration) increases strain on the defendants, reduces quality social ties, and reduces control by these same individuals. This is best illustrated through an example. Following an arrest and a determination that pretrial incarceration is necessary, a defendant is typically hard-pressed to retain pre-existing employment. Existing social ties with legitimate individuals tend to strain as well, given the identification of the defendant as an alleged criminal. Without legitimate employment and strong positive social ties, there is less of a pull on the defendant to remain crime-free. Once released, following a conviction, background checks by employers often reveal criminal histories. As labeling theory explains, the simple fact of previous incarceration often changes the manner by which these defendants view themselves, decreasing self-worth and one's outlook on positive progress. These factors on their own make it more likely that a defendant once released will recidivate. Instead, these factors, buoyed by these criminological theories, can accelerate a defendant's desire to commit further crime. Strains associated with incapacitation have been shown found to impact future offending behaviors (e.g., among prison inmates—see Morris, Carriaga, Diamond, Piquero, & Piquero, 2012).

Imprisonment generally has limited value in specific deterrence (i.e. Turner, Peterson, & Petersilia, 1986), suggesting that incapacitation is the remaining justification for such pretrial incarceration. But, as Jackson noted, pretrial crime is infrequent (1987), calling into question this justification as well. Further, detaining low- and moderate-risk defendants, even just for a few days, is strongly correlated with higher rates of new criminal activity (Loewencamp, VanNostrand & Holsinger, 2013). These studies, when taken in the aggregate call into question whether general deterrence theory applies to pretrial detention at all. If defendants are not being deterred by this form of punishment, and instead, new criminal activity is being ignited through pretrial detention, there is serious question about the value of pretrial detention for these bond -eligible offenders.

Policy Implications and Conclusion

The duration that a defendant is incarcerated prior to adjudication is something readily modifiable under the law, and would have widespread and lasting effects on both criminality and justice administration. The amount of time an individual spends incarcerated tends to not be dictated by statute or law, but is rather a decision reached through deliberative argument and consideration. Bond schedules can be adjusted to address this issue. Thus, our research may assist decision-makers in this activity. If the goal, or at least one of the goals, of these actors in considering pretrial

detention is to prevent additional criminal activity by the same defendant then the results of our study should be considered.

Although our study is limited to a single jurisdiction, it may provide a basis for further study. Specifically, those that seeks to validate or discredit the hypothesis that criminal justice actors should strive to avoid any pre-trial incarceration for those offenders at the lower ends of the spectrum with regards to flight and dangerousness. Such an approach is a substantial shift in criminal justice policy, but our study indicates that it may very well be beneficial. There is little reason to hold these defendants prior to trial.

Access to financial resources may play a role in why some individuals engage in crime, however, a lack thereof may also be exacerbated by increased exposure to pretrial detention. While we do not suggest that personal recognizance bonds should automatically be used as the primary alternative, these findings suggest consideration for alternatives to full-term pretrial detention. Justice administrators should feel encouraged to discuss alternatives to jail that involve some sort of pretrial supervision at a reduced cost.

Pretrial services agencies are limited by government sponsorship, thus without the expansion of government, this alternative may not always be able to accommodate large volumes of unreleased bond-eligible defendants. Regardless of one's philosophy on the fairness of financially based jail release, it is undeniable that the commercial bond industry has a capacity to handle increased numbers of supervised release. In fact, it is likely that justice agencies spend more on incarcerating bond eligible defendants than would be the cost of contracting a commercial bond company to act as surety. We mentioned previously that the average jail duration for this group was 17 days. At the rate of sixty dollars per day, the average defendant of this type costs taxpayers \$1,020. That being said, and operationally speaking, gains could be made by offsetting these costs to formal pretrial supervision, whether from a government agency or from the commercial bond industry, over that of jail.¹⁰ In any case, additional research is needed. Given the findings reported here and should they be replicated, it seems reasonable to presume that eliminating pretrial detention for this specific group of defendants could have multiple prosocial effects. For instances where a defendant's risk is in question, alternatives to jail are readily available to perform some degree supervision at a much lower cost than that of jail (e.g., pretrial services, commercial bail, etc.)

While the findings of this study are relatively robust, they are not without limitation. First, the study was limited to one large urban jurisdiction. Second, multiple factors related to the individual characteristics of the offenders were not available in the data and therefore not analyzed. For example, measures of socio-economic status and employment information for defendants were not available. We were also unable to determine the reason why a defendant remained in jail even though he or she was bond eligible and did not have access to information on the social ties that offenders had before and after incarceration. Additional studies of other jurisdictions, including rural areas, would add greater dimension to this body of research.

Future research on this topic might include assessing the timing to recidivism via survival analyses and should also further explore variation in effects across different doses of pretrial jail time via a counterfactual research design. We encourage researchers to pay particular attention to jurisdictions undergoing major pretrial justice overhauls. For example, prior to the time of this writing, (Summer, 2018) the state of California became the first state to eliminate cash bail for suspects awaiting trial (Wilson, 2018). Instead, the new system – which will take effect in October 2019 – is one based solely on the risk level that a suspect may pose. The new system was designed to release those arrested on non-violent misdemeanors within 12 hours of booking, while offenders accused of felony offenses will be placed into “low,” “medium,” and “high-risk” categories. Those designated low risk will be released, while those identified as posing a medium risk could be released based on assessment agencies. Those designated as high-risk will remain in custody by a judge. Assessments of this new approach will need to be done over time.

Our results suggest a positive relationship between pretrial incarceration and recidivism, and a stronger relationship as that time in pretrial detention increases once defendants pass the twelve-month mark following their release. This research coincides with a changing landscape of pretrial detention policy and procedure, as policy-makers have begun to heartily question the effectiveness of pretrial detention. Our research supports this re-analysis and calls for further study on this increasingly important field in criminal justice.

¹⁰ In fact, recent research suggests that defendants released via commercial bail bonds are more likely appear in court (Clipper, Morris, and Russell, 2015).

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