

Bail Reform and Public Safety

Evidence from 33 Cities

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More than a dozen jurisdictions across the country have curtailed the use of money bail over the past decade.¹ But after violent crime rose sharply in the first year of the Covid-19 pandemic, many politicians, police leaders, and pundits were quick to blame bail reform.² Claims that bail reform undermines public safety ultimately led to a series of rollbacks.³ In this study, we test those claims, evaluating how crime trends fared after the enactment of bail reform policies in cities across the country.

To date, researchers have evaluated bail reform largely in individual cities or states, finding little if any evidence that these policies increased crime.⁴ This study is the first to use data from dozens of jurisdictions nationwide to test bail reform's causal impact on crime trends. It compares major offenses from 2015 through 2021 in 22 cities that had in place some type of bail reform with 11 others that did not. The analysis first focuses on all major offenses across jurisdictions and then on specific types of crime. It also examines the impact of reforms according to whether they were implemented through legislation, court order, or changes in prosecutorial policy. Last, this study focuses on cities where research shows reforms had large effects on how and when bail was set.

Ultimately this report finds no statistically significant relationship between bail reform and crime rates. In other words, there is no reason to believe that bail reform has led

to increased crime. This holds true even when focusing on major policy changes that have drawn public scrutiny, like those in New York and New Jersey. These findings add to a growing body of literature showing that bail reform is an unlikely explanation for recent trends in crime, whether increases or decreases. And they suggest that policymakers' recent focus on weakening bail reforms as a response to crime has been misguided — and a distraction from smarter and more promising ways to enhance public safety.

Bail Reform and Recent Crime Trends

People who have been arrested for a crime are presumed legally innocent until proven guilty. But they may nevertheless be incarcerated while awaiting trial. One common way they can gain release during this pretrial period is through money bail: a pledge of cash or a bond forfeited if they break the conditions under which they have been released. (Common conditions include limitations on travel or on contact with people involved in the case, or a requirement to meet with a pretrial services agency.)⁵ A judge sets the amount of money that a defendant must post. Those who cannot meet this requirement are detained until their case is resolved.⁶

The purpose of bail, for much of the nation's history, was to guarantee a person's return to court, and it could be imposed only for that purpose.⁷ Over the past half century, however, most states have given judges the discretion to set bail if they believe the defendant poses a safety risk to the community, regardless of whether there is a flight risk.⁸ This shift undermines the presumption of innocence, in theory and in practice. Worse, money bail effectively makes release hinge on access to money or credit rather than public safety.⁹

Efforts to move away from money bail have picked up pace in the past decade. In some cases, they have grown from endeavors to address racial and economic disparities. In others, they have stemmed from a need to shrink jail populations and correctional costs or from a concern that making release contingent on money can distort decisions about release and actually undermine public safety.¹⁰ In response, some jurisdictions have precluded judges from setting money bail in cases involving lower-level offenses such as violations or misdemeanors. Others have sought to constrain or inform judicial decisions by tying bail eligibility to defendants' assessed risk of flight or of committing a new offense. And several now require judges setting bail to consider a person's ability to pay.¹¹

A variety of officeholders have led these reforms. In Illinois, New Jersey, and Utah, legislators revised the laws governing how judges can set money bail. In other states, judges and prosecutors worked within existing laws and adopted changes to bail practices. For instance, several years before the New York State legislature enacted a comprehensive reform, the Brooklyn and Manhattan district attorneys directed prosecutors not to seek bail in some lower-level cases.¹² Finally, in some jurisdictions, including the state of California and Harris County, Texas, courts imposed changes to bail policy.¹³ Maryland's high court issued guidance requiring judges to assess a defendant's ability to pay before setting bail.¹⁴ Some of these measures proceeded on a bipartisan basis. Bail reform in Alaska, New Jersey, and Utah was championed by Republican governors.¹⁵

But after violent crime rose sharply across the country during the first year of the Covid-19 pandemic, the politics of bail reform changed. Nationally, the murder rate climbed by 30 percent from 2019 to 2020 and the assault rate rose by 10 percent. Cities that track gun violence also reported spikes in shootings.¹⁶ In the years since the onset of the pandemic, some cities also saw increases in retail theft.¹⁷ In the absence of reliable data, many politicians and pundits attributed the upticks to bail reform, a narrative that only intensified in the 2022 midterm elections.¹⁸ Ultimately, concerns about rising crime drove a broad political reaction against criminal justice reform in general and bail reform in particular. Several states rolled back previous reforms, and some prosecutors who had implemented their own policy changes came under criticism.¹⁹

Four years later, researchers have begun to offer possible explanations for the violent crime spike. Bail reform is not among them.²⁰ While no single factor can explain crime trends, the best evidence points to the social disruption caused by the pandemic, which had profound effects on mental and community health, as well as an increase in people buying, carrying, and using firearms. Budget cuts in 2020 also forced local governments to cut back services that promote safety, such as violence-prevention initiatives and after-school programs, and to close places where people can safely congregate.²¹ But the narrative around bail reform persists, driving pushback to criminal justice reforms and contributing to misleading claims about crime across the country.²² It is vitally important that policymakers and voters have the best possible evidence at hand when evaluating these claims.

Research Strategy

We are aware of no prior study that evaluates the causal relationship between bail reform and crime rates at the national level.²³ The best causal research to date focuses instead on individual jurisdictions and suggests that reforms have caused little if any increase in crime or pretrial rearrest rates. These findings hold even in jurisdictions that have made major changes to their policies relating to money bail.²⁴

To supplement these studies, we examined the impact of bail reforms across multiple jurisdictions, which minimizes the risk that any observed change in crime rates might be due to factors that are strictly local or fleeting. This approach also enables us to consider different varieties of bail reform.

Data Collection and Classification

For this analysis, we constructed a proprietary database of monthly crime data from 2015 through 2021 in 33 cities.²⁵ We selected cities first on the basis of data availability and then added other jurisdictions to ensure that all regions of the country were represented and that major recent policy changes were included.²⁶ From these cities we collected data on six of the eight crimes defined by the FBI as Part I index offenses: murder, robbery, aggravated assault, burglary, motor vehicle theft, and larceny.²⁷ Because these are some of the most serious offenses, almost all police agencies track them. (Lower-level offenses such as harassment are not consistently tracked across cities.) These offenses are also clearly defined in FBI crime-reporting documentation, providing a baseline that can help overcome city-to-city differences in how offenses are labeled.²⁸

Guided by the FBI's classifications, we then split these crimes into three categories: index crime (all six offenses), violent crime (murder, robbery, and aggravated assault), and property crime (burglary, motor vehicle theft, and larceny). We also studied larceny separately, as it is the FBI index offense most likely to include and track trends in lower-level (misdemeanor) crime.²⁹

We defined *bail reform* broadly as any policy designed to limit the scope or impact of money bail, regardless of how the policy was implemented, and surveyed cities to identify any policy change enacted during the study period that met this definition.

Table 1 provides a summary of bail reform policies evaluated in this report, noting how they came about and what they sought to achieve.³⁰

We classified jurisdictions with bail reforms in two ways, first according to the entity that implemented the reform: prosecutor, court, or legislature. This division was intended to capture some of the variation among reforms. (Legislative reforms tend to be more sweeping than prosecutorial ones, for example.) Where jurisdictions experienced multiple policy changes during the study period, this analysis focused on the earliest to take effect. Thus, Los Angeles became a bail reform jurisdiction in December 2020, based on prosecutor-led reforms, rather than in March 2021, when the case *In re Humphrey* required judges to make ability-to-pay determinations when setting bail.³¹ The sole exception was New York City. Though Brooklyn and Manhattan prosecutors changed their bail practices in 2017 and 2018, respectively, these reforms were not adopted citywide. Focusing on either date would also understate the impact of the much broader statewide reform enacted in 2020.

We then created a second classification based on the outcomes of reforms. Some changes in bail policy have been shown to have far-ranging effects on the percentage of cases in which bail is imposed or the percentage of defendants who are released while awaiting trial. For example, Harris County (including Houston) sharply reduced pretrial detention for people charged with misdemeanors.³² Other changes have not had such an impact; for instance, Philadelphia has not seen a pronounced effect on pretrial detention outcomes.³³ Grouping reforms that have substantially affected bail outcomes with those that have not would risk obscuring any impact that broader or more successful reforms have had on crime trends. Therefore, we created a subsample of cities with sweeping reforms where research also showed changes in how and when bail is imposed: Buffalo, New York; Chicago; Houston; Newark, New Jersey; and New York City.³⁴

Descriptive Statistics

Figure 1 draws on FBI data to illustrate crime trends in cities with bail reform and in those without, from the beginning

of our study period, 2015, through the year after it, 2022. As the graphs show, the groups broadly mirror each other: crime dropped in 2020 — when property crime, by far the most common type of offense, plummeted amid the pandemic — and then rose in subsequent years. Notably, the average violent crime rates of cities with bail reform held largely steady during the Covid-19 pandemic and remained lower in its aftermath than the average for cities without reform. (Both groups of cities, however, saw a spike in murders between 2019 and 2021. That trend is not visible in these graphs since murder is the rarest violent crime.)

These trends call into question any theory that posits a relationship between bail reform and crime. But while these graphs may be instructive, they can only show correlations (or lack thereof). Assessing whether a causal relationship exists requires a more sophisticated analysis.

Difference-in-Differences Regression Strategy

To test the causal impact of bail policies on crime outcomes, we used a difference-in-differences estimation strategy, comparing the trajectories of crime rates in cities that adopted bail reform with those in cities that did not.³⁵

Simple difference-in-differences estimation strategies do not account for a crucial characteristic of the dataset analyzed in this report. Bail reform policies were implemented at different times: in New Jersey in 2017, for example, and in New York in 2020. This staggered implementation creates a risk that cities with earlier reforms would be given undue weight in a basic regression model. For this report, then, we used a new estimator that is designed to account for staggered policy adoption.³⁶

Control variables, including those tracking basic socioeconomic factors, political orientation, and Covid-19 shutdown dates and length, were also applied.³⁷ While it would be ideal to also control for decline-to-prosecute policies, which could affect criminal justice case processing, these policies tended to be implemented alongside bail reform and therefore could not be controlled for.³⁸

To confidently establish a causal relationship between bail reform and crime rates in our data, two conditions must be met. First, crime trends prior to reform in these cities must match those in cities that did not implement reforms, such that comparing pre-reform and post-reform trends is likely to reflect the impact of the policy change in question — here, bail reform (this is known as the parallel trends assumption). Otherwise, any divergences post-reform could be the result of underlying pre-reform differences rather than the policy change. We tested for significant differences in pre-reform trends, and our models passed these tests in all but a few cases.³⁹ Overall,

TABLE 1

Bail Reform Policies in Effect, 2015–2021

CITY	LED BY	EFFECTIVE	EFFECT
Atlanta, GA	Legislature	July 2018	Circumscribes judicial discretion in misdemeanor cases and requires the consideration of ability to pay money bail in all cases.
Austin, TX	Courts	February 2020	Expands use of unsecured personal recognizance bonds to cover most nonviolent misdemeanors.
Austin, TX	Prosecutor	April 2021	Directs prosecutors, depending on the severity of the charges, to seek release presumptively with no conditions or the “least restrictive condition necessary” to mitigate risk of flight or threat to public safety.
Baltimore, MD	Courts	July 2017	Prioritizes releasing defendants on personal recognizance or under the least restrictive conditions.
Boston, MA	Prosecutor	March 2019	Required presumptive release for some offenses and least restrictive conditions in more serious offenses if the presumption was rebutted.
Buffalo, NY	Legislature	January 2020	Ends money bail and requires release or nonmonetary conditions for lower-level nonviolent offenses. In other cases, judges must set the least restrictive conditions that “will reasonably assure” return to court.
Chicago, IL	Prosecutor	March 2017	Recommends personal recognizance bonds for misdemeanors and low-level offenses when no risk factors suggest danger to community or flight risk.
Chicago, IL	Courts	September 2017	Creates presumption against monetary conditions, requires the “least restrictive” conditions to ensure return to court, and sets procedures for mandatory ability-to-pay determinations.
Chicago, IL	Legislature	January 2018	Requires the least restrictive release conditions and obligates courts to “consider the defendant’s socioeconomic circumstances”.
Cincinnati, OH	Courts	July 2020	Absent a granted motion for pretrial detention, required courts to release a defendant on the least restrictive conditions. Money bail had to be the least burdensome necessary to “reasonably assure” return to court.
Colorado Springs, CO	Legislature	April 2019	Removes authority to set money bail for lowest-level misdemeanors and violations and traffic infractions.
Dallas, TX	Prosecutor	April 2019	Specifies that prosecutors will presumptively agree to release without conditions in misdemeanors and in cases involving lower-level felonies when the defendant has no recent conviction record. For all other felonies, prosecutors will seek the least restrictive conditions.
Denver, CO	Legislature	April 2019	Removes authority to set money bail for lowest-level misdemeanors and violations and traffic infractions.
Houston, TX	Courts	June 2017	Removes authority for courts to set money bail in most misdemeanor cases.
Kansas City, MO	Courts	July 2019	Requires courts to impose the least restrictive conditions and to impose monetary conditions only when nothing else will secure the appearance of the defendant at trial or the safety of the community, and authorizes ability-to-pay determinations.

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TABLE 1 (continued from previous page)

Bail Reform Policies in Effect, 2015–2021

CITY	LED BY	EFFECTIVE	EFFECT
Los Angeles, CA	Legislature	January 2017	Permits pretrial detention and monetary bail only when no other combination of nonmonetary conditions will suffice, as determined by a risk assessment.
Los Angeles, CA	Prosecutor	December 2020	Adopts a presumption of release for prosecutors in all cases, precludes cash bail for misdemeanors and lower-level felonies, and obligates prosecutors to seek only bail “aligned with” the defendant’s ability to pay.
Los Angeles, CA	Courts	March 2021	Requires determination of ability to pay in all cases.
Louisville, KY	Legislature	June 2011	Effectively abolished commercial bail (1976) and requires release of people evaluated as posing a low or moderate risk of flight or to the community (2011).
Newark, NJ	Legislature	January 2017	Largely limits money bail and replaces it with a system that ties detention to a defendant’s risk of flight or of committing an offense while released, with decisions guided by a risk assessment tool.
New York, NY	Legislature	January 2020	Ends money bail and requires release or nonmonetary conditions for lower-level nonviolent offenses. In other cases, judges must set the least restrictive conditions that “will reasonably assure” return to court.
Philadelphia, PA	Prosecutor	February 18	Ends prosecutors’ practice of seeking money bail for most low-level offenses. In March 2020, District Attorney Larry Krasner also announced that prosecutors would seek high bail or detention only “for those who cannot be released without posing a serious threat to public safety.”
Sacramento, CA	Courts	March 2021	Requires determination of ability to pay in all cases.
San Francisco, CA	Courts	July 2019	Requires courts to impose the least restrictive conditions and to impose monetary conditions only when nothing else will secure the appearance of the defendant at trial or the safety of the community, and authorizes ability-to-pay determinations.
San Francisco, CA	Prosecutor	January 2020	Ended prosecutors’ practice of seeking money bail, and of seeking pretrial detention except in enumerated circumstances.
San Francisco, CA	Courts	March 2021	Requires determination of ability to pay in all cases.
St. Louis, MO	Prosecutor	January 2017	Limited money bail requests to more serious felonies.
Virginia Beach, VA	Legislature	July 2021	Eliminates presumption of detention for certain serious charges.
Washington, DC	Legislature	July 1992	Sets a presumption of release; obligates judges to impose the least restrictive conditions that will ensure the defendant’s return to court and community safety; and permits only unsecured bail bonds, and only when necessary to prevent flight, effectively abolishing money bail.

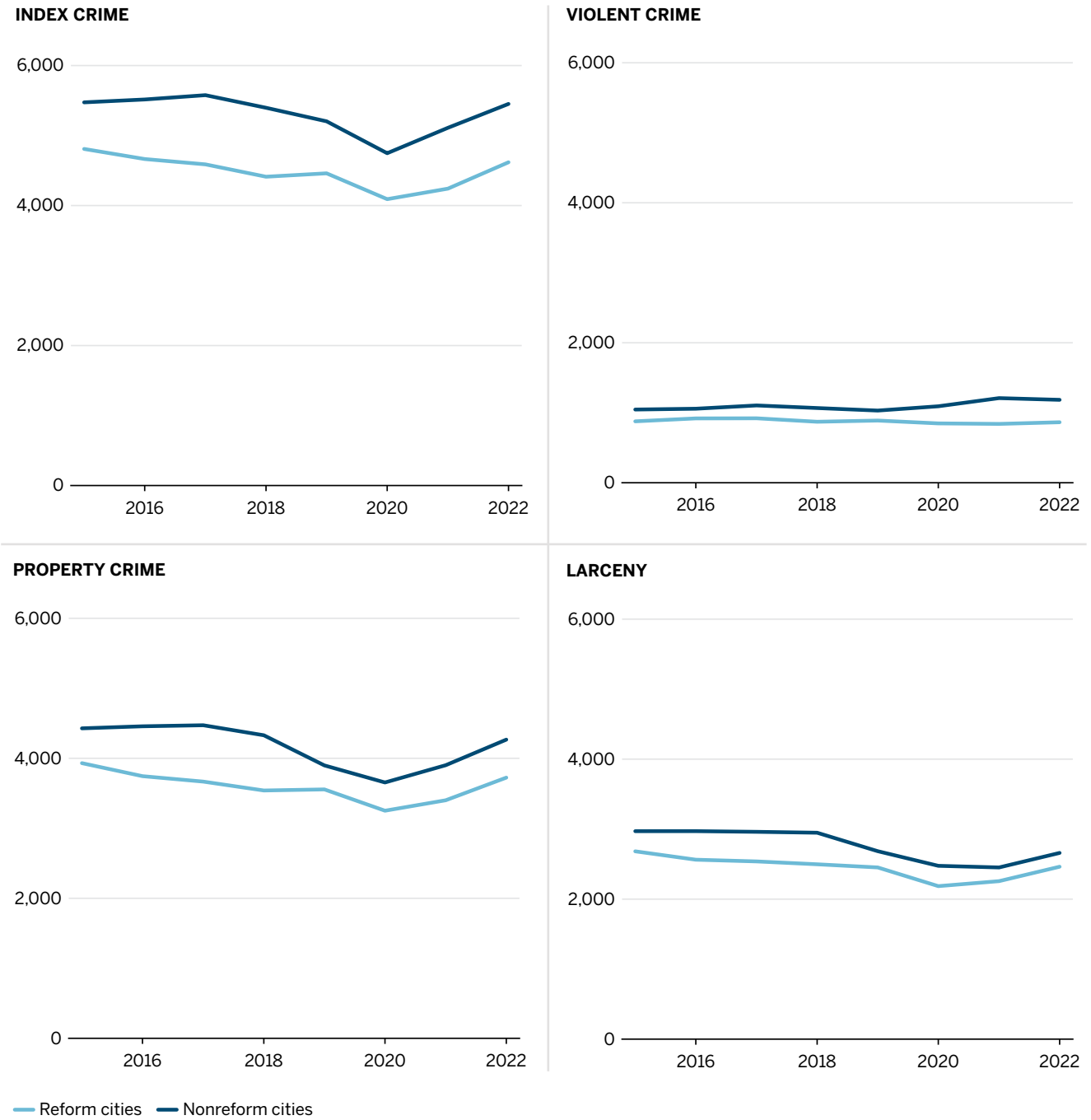
Note: Gray shading indicates initiatives that were later ended or significantly pared back, for example by repeal or following the election of a new chief prosecutor.

Source: Brennan Center analysis. See appendix A.

FIGURE 1

Average Crime Rates of Cities by Reform Status, 2015–2022

PER 100,000 PEOPLE



Note: Graphs illustrate the average of city crime rates for the 22 jurisdictions studied in this report that adopted bail reform before or within the study period and the 11 that did not. Cities that did not report a full year of data are excluded from the average for that year. Due to a transition in the FBI's data reporting system, 11 cities failed to report data in 2021, rendering that year's data point less reliable than those for other years.

Source: Federal Bureau of Investigation, Uniform Crime Reports, 2015–2022.

the cities in this study represent a good sample of reform and nonreform jurisdictions that have sufficiently similar crime trends.

Second, in assessing causal claims, we need to consider the statistical significance of any estimated differences in crime trends found following bail reform. We should expect small variations between cities. What matters is whether any divergence in crime rates is statistically significant — that is, whether we would be likely to see a difference as large due to random chance. Ultimately, our results reveal that there are no statistically significant differences in crime rates that can be attributed to bail reform.

Findings

First, we sought to answer the most basic question posed by this study: did reforms implemented in U.S. cities during the study period affect crime trends? This question offers the broadest look at the effects of bail reform on crime rates.

To answer this question, we analyzed data from all cities studied in this report and all types of bail reform policies to test the effect of bail reform on crime generally — that is, the combination of all six offenses studied in this report. This model showed no statistically significant difference in crime rates after reform. In other words, we found no evidence that bail reform affected crime rates.

Figure 2 presents our findings from the full sample of cities: specifically, how index crime rates — here, the sum

of the murder, robbery, aggravated assault, burglary, motor vehicle theft, and larceny rates — differed between cities with and without reform. The graph tracks crime rates from 6 months before reform to 12 months after reform.

As the graph illustrates, index crime remained largely stable after reform implementation. The black line represents the best estimate of the difference in crime rates between cities that adopted bail reform and those that did not. A positive value at a given time point indicates that the crime rate was higher in cities that had instituted bail reform than in those that had not; a negative value indicates crime was lower in cities with reform than in those without it.

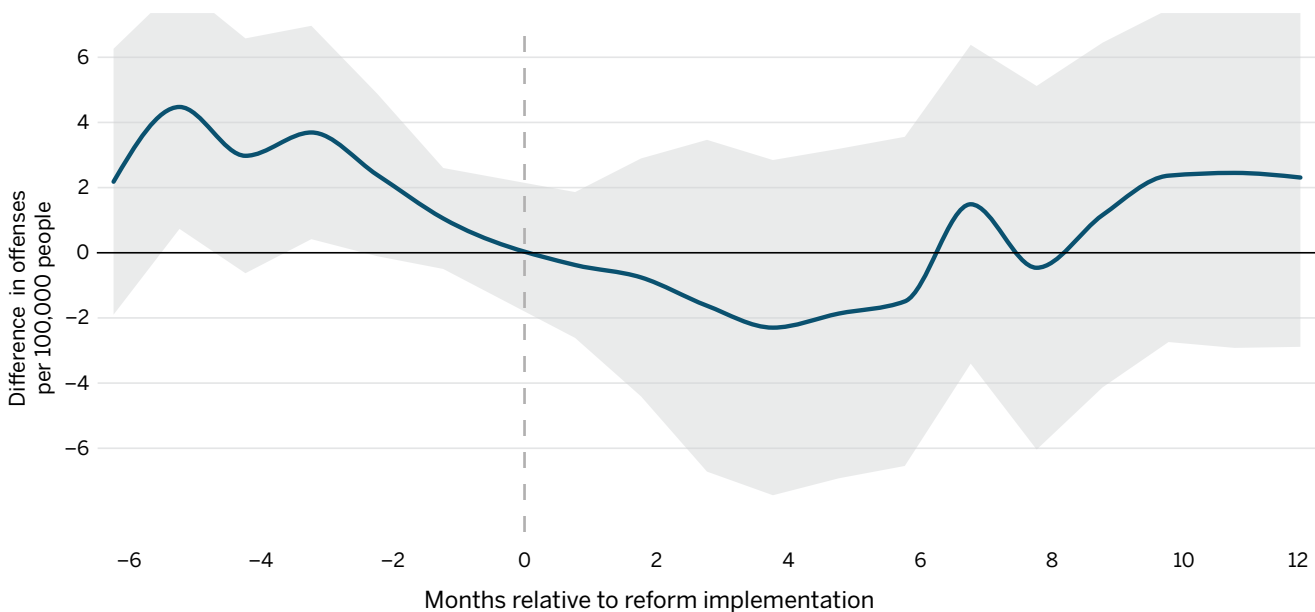
For example, the figure indicates that, seven months after a city in our sample instituted bail reform, crime was likely slightly higher than in an otherwise comparable city without reform. Similarly, eight months after the implementation of bail reform, crime was likely slightly lower.

But these estimates carry a great deal of uncertainty. The gray area expresses that uncertainty, representing the confidence interval: the range of values that may also reflect the difference in index crime rates. The confidence interval crosses the x-axis at all times after the adoption of bail reform, meaning that the difference in crime rates between cities with and without bail reform could have been zero at all times. Put simply, there is no statistically significant difference in crime rates between cities that reformed their bail policies and those that did not.

We then used this broad sample to test how bail reform might impact different types of crimes. Theoretically, bail

FIGURE 2

Difference in Index Crime Rates Between Cities With and Without Bail Reform



Source: Brennan Center analysis.

reform could affect one crime type but not another. Neither violent crime (murder, assault, and robbery) nor property crime (larceny, burglary, and motor vehicle theft) showed a statistically significant relationship with bail reform (see table 2).⁴⁰

We also investigated whether bail reform affected larceny rates in particular. Larceny is the only crime in this report’s dataset that could encompass some misdemeanor offenses. Therefore, this analysis might identify whether bail reform caused increases or decreases in misdemeanors. But again, no such evidence emerged.

Bail decisions are shaped by three entities: legislators, who define the limits of judicial discretion; prosecutors, who decide whether to seek bail; and judges, who set bail. Reforms adopted by these actors may differ and have a smaller or larger effect on crime rates. Similarly, if there is a relationship between bail reform and crime rates, then that effect would be most pronounced in cities with bolder reforms that substantially reshape bail policy.

To test these theories, we analyzed the effects of reforms based on whether they were implemented by legislators, courts, or prosecutors. We compared the cities that followed a particular path toward bail reform with the cities that had not implemented any reform. For example, cities with prosecutor-led reforms were compared with control cities with no reforms, while cities

with legislative or court-led reforms were dropped from the sample.⁴¹

For all types of reform, we found no statistically significant difference in post-reform crime trends. These results held when evaluating their effect on rates of crime generally, as well as on property crime, violent crime, and larceny.

We then assessed the cities — Buffalo, Chicago, Houston, Newark, and New York City — where reforms had the largest impact on how and when bail was set. We compared crime trends in these five cities against cities that had not enacted bail reform and dropped the other cities that had implemented reforms from the sample. Once again, no statistically significant effects emerged.

Statistical Checks

We conducted several additional statistical tests to ensure the validity of these results. First, we considered the possibility that any single jurisdiction might, on its own, skew the crime rates of the group. To test this possibility, we reran every analysis, dropping each city and state from the dataset in succession, given that bail reform is enacted at both the city and the state level. (For example, in the state robustness test, we dropped Buffalo and New York City, the two cities in the state of New York; in the city robust-

TABLE 2

Effect of Bail Reform Policies on Crime Rates

	ESTIMATED EFFECT MONTHLY (CRIMES PER 100,000 PEOPLE)	STATISTICAL SIGNIFICANCE	PRE-REFORM TRENDS
By type of crime			
Index crime	+0.01	None	Parallel
Violent crime	+0.35	None	Not parallel
Property crime	-1.05	None	Parallel
Larceny	-7.61	None	Parallel
By type of reform			
Legislative	-0.86	None	Parallel
Prosecutorial	-0.81	None	Parallel
Judicial	-0.32	None	Parallel
Major	-0.30	None	Parallel

Note: For full regression tables, see the methodological supplement. The “major” category includes five jurisdictions, three with legislative and two with court-led reforms. Values represent the estimated monthly change in crime rate.

Source: Brennan Center analysis.

ness test, we dropped each in succession.) Once again, the results did not show that bail reform had a statistically significant effect for any type of crime or policy.

Second, to study the effects of bail reform before the Covid-19 pandemic, we reran each analysis removing all observations after March 1, 2020. This required dropping from the analysis cities that had enacted bail reforms after that date (such as Austin and New York). No statistically significant effects were found.

Discussion

Bail reform did not have a statistically significant effect on crime rates in any of the analyses. Further, there were no statistically significant differences in pre-reform trends between cities with and without bail reform for all except a few of our models.

As these findings show, there is no evidence that bail reform affects crime rates. This holds true even when distinguishing among various types of crime and various types of reform. These findings reinforce studies about individual jurisdictions that have found little if any relationship between bail reform and crime. They show that political attacks on bail reform lack a foundation in evidence.

Further research is needed to test other theories about how bail reform may interact with crime. For instance, it is possible that reform could lead to increases in crime that take several years to materialize. But it could also lead to long-term reductions in crime.⁴² Misdemeanor bail reform could shift enforcement resources away from lower-level offenses and toward more serious ones. Pretrial supervision programs, which are often created or expanded alongside bail reform, could reduce pretrial rearrests if implemented with adequate funding and with an eye toward avoiding an increase in supervision of people who would previously have been released.⁴³ Bail reform could also reduce the collateral consequences of incarceration that, by preventing people from attaining

the basic necessities of life, make recidivism more likely.⁴⁴ These theories, which are unlikely to be observed in the relatively short period studied here, are worth testing as more data becomes available.

Separately, pretrial systems are complex, and reforms may create unintended consequences, such as expansions in supervision and increases in detention for some types of cases.⁴⁵ Researchers should take these possibilities into account as data on the criminal justice system improves. As more cities, counties, and states enact bail reform policies, researchers may also be able to work with more robust data.

Conclusion

This report discredits theories linking bail reform to recent increases in crime. We find no evidence to support such a connection, even after testing different types of reform in jurisdictions across the country. This finding should not be surprising: Claims that bail reform increases crime incorrectly assume that it requires the release of people who may threaten the community. In fact, in most cases judges retain broad discretion to prioritize public safety — without the distorting influence of money.

It follows that the best explanations for the mid-pandemic spike in violent crime lie beyond bail policy, as do the best solutions to reduce violent and property crime.⁴⁶ Policymakers tasked with ensuring public safety should focus on addressing specific social and policy problems that worsened during the pandemic and continue to this day.⁴⁷ They should, for example, expand access to mental health and substance abuse treatment programs.⁴⁸

Other investments can build on bail reform to lessen reliance on pretrial detention. Increased funding for supervision programs and community-based service providers, for example, would make reforms more effective and the criminal justice system more fair.⁴⁹ But leaders who are serious about improving public safety will need to look beyond bail policy to reduce crime and violence.

Appendix A: Notes to Table 1

In constructing this table, the authors were guided by three previous studies that also collected state and local bail reforms. Because the authors supplemented the analysis in these reports with further research, details and effective dates may diverge between them. See Isabella Jorgensen and Sandra Susan Smith, *The Current State of Bail Reform in the United States: Results of a Landscape Analysis of Bail Reforms Across All 50 States*, Harvard Kennedy School Faculty Research Working Paper Series RWP21-033, December 2021, <https://www.hks.harvard.edu/publications/current-state-bail-reform-united-states-results-landscape-analysis-bail-reforms-across>; Don Stemen and David Olson, *Is Bail Reform Causing an Increase in Crime?*, Harry Frank Guggenheim Foundation, January 2023, <https://www.hfg.org/wp-content/uploads/2023/01/Bail-Reform-and-Crime.pdf>; and Amanda Agan, Jennifer Doleac, and Anna Harvey, *Prosecutorial Reform and Local Crime Rates*, Law & Economics Center at George Mason University Scalia Law School Research Paper Series No. 22-011, October 29, 2021, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3952764.

California

In re *Humphrey*, 482 P.3d 1008 (Cal. 2021). Also see “*In re Humphrey*: California Supreme Court Holds Detention Solely Because of Inability to Pay Bail Unconstitutional,” *Harvard Law Review* 135, no. 912 (January 2022), <https://harvardlawreview.org/print/vol-135/in-re-humphrey/>. Critics argue that the “promise of *Humphrey* . . . remains unmet” because there was no evidence that pretrial jail populations, bail amounts, or average length of pretrial detention decreased in California. See Alicia Virani et al., *Coming Up Short: The Unrealized Promise of In re Humphrey*, UCLA School of Law and Berkeley Law Policy Advocacy Clinic, October 2022, https://law.ucla.edu/sites/default/files/PDFs/Criminal_Justice_Program/Coming_Up_Short_Report_2022_WEB.pdf.

Los Angeles. George Gascón, Los Angeles County District Attorney, “Special Directive 20-06,” December 7, 2020, <https://perma.cc/H9GE-RWQW>. For media coverage, see James Queally, “On First Day as L.A. County D.A., George Gascón Eliminates Bail, Remakes Sentencing Rules,” *Los Angeles Times*, December 7, 2020, <https://www.latimes.com/california/story/2020-12-07/in-first-day-on-job-gascon-remakes-bail-sentencing-rules>. The policy was reversed in May 2022 to permit prosecutors to request cash bail for people who pose an exceptional risk

to public safety, regardless of whether they are charged with a misdemeanor or felony offense; see Scott Schwebke, “Embattled DA Gascón Reverses Course on Controversial Zero-Bail Policy,” *Los Angeles Daily News*, May 13, 2022, <https://www.dailynews.com/2022/05/13/embattled-da-gascon-reverses-course-on-controversial-zero-bail-policy/> (describing how Gascón revised the policy about 17 months after taking office).

San Francisco. San Francisco District Attorney’s Office, “Policy Directive: 1.1 Pretrial Release Conditions and Detention Policy,” updated January 19, 2022, https://sfdistrictattorney.org/wp-content/uploads/2022/01/1.1-Pretrial-Release-and-Detention-Policy_Updated-1.19.2022.pdf. Also see Chesa Boudin (@chesaboudin), district attorney, City and County of San Francisco, Twitter post, January 23, 2020, <https://twitter.com/chesaboudin/status/1220229678386073601> (“To be clear, the policy we rolled out today focused on ending money bail not on promoting algorithms. You can read the policy here.”). This policy was revised in August 2022 when Brooke Jenkins replaced Boudin as district attorney and directed prosecutors to seek cash bail and pretrial detention in limited misdemeanor cases “as required by law” where “less restrictive measures have proven ineffective and pre-trial detention will improve victim and public safety.” San Francisco District Attorney’s Office, “District Attorney Brooke Jenkins Announces Pre-Trial Release and Detention Policy,” August 24, 2022, <https://www.sfdistrictattorney.org/press-release/district-attorney-brooke-jenkins-announces-pre-trial-release-and-detention-policy/>.

Colorado

H.B. 19-1225, 72nd Gen. Assemb., Reg. Sess. § 1 (Colo. 2019), <https://leg.colorado.gov/bills/hb19-1225>, codified at Colo. Rev. Stat. Ann. § 16-4-113 (2022).

Georgia

S.B. 407, 154th Gen. Assemb., Reg. Sess. § 2-4 (Ga. 2018), <https://www.legis.ga.gov/legislation/52661> (noting an effective date of July 1, 2018), codified at Ga. Stat. Ann. § 17-6-1(b)(1), (e)(2). But research suggests that counties are failing to consistently evaluate a person’s financial circumstances after an arrest and guarantee release within 48 hours for those who cannot pay. See Andrea Woods et al., “Boots and Bail on the Ground: Assessing the Implementation of Misdemeanor Bail Reforms in Georgia,” *Georgia Law Review* 54, no. 4 (2020): 1235, <https://georgialawreview.org/article/13665-boots-and-bail-on-the-ground-assessing-the-implementation-of-misdemeanor-bail-reforms-in-georgia>.

Illinois

S.B. 2034, 100st Gen. Assemb., Reg. Sess. § 1-10 (Ill. 2017), <https://www.ilga.gov/legislation/BillStatus.asp?GA=101&DocTypeID=SB&DocNum=2034&GAID=14&SessionID=91&LegID=105495>, codified at 725 Ill. Comp. Stat. Ann. 5/110-1 et seq. Also see Ill. Comp. Stat. § 75/1 (providing for an effective date of January 1 of the following year for laws passed before June 1).

Chicago. For prosecutor-led reform, see Steve Bogira, “The Hustle of Kim Foxx,” *Marshall Project*, October 29, 2018, <https://www.themarshallproject.org/2018/10/29/the-hustle-of-kim-foxx> (“Foxx had also moved forward quickly on another front: bail reform. In March, she announced that her prosecutors would no longer oppose the granting of individual recognizance bonds, or I-bonds, to detainees charged with nonviolent crimes who currently were required to post \$1,000 or less but couldn’t afford to.”); and Steve Schmadeke, “Foxx Agrees to Release Inmates Unable to Post Bonds of Up to \$1,000 Cash,” *Chicago Tribune*, March 1, 2017, <https://www.chicagotribune.com/2017/03/01/foxx-agrees-to-release-of-inmates-unable-to-post-bonds-of-up-to-1000-cash/>. Also see Cook County State’s Attorney Office, “State’s Attorney Foxx Announces Major Bond Reform,” June 12, 2017, <https://www.cookcountystatesattorney.org/news/state-s-attorney-foxx-announces-major-bond-reform> (documenting further policy changes). For court-led reform, see Cook County Cir. Ct. G.O. 18.8A (July 17, 2017), <https://bit.ly/3U8WNPG> (archived link). The order was effective on September 17, 2017, for all felony cases, and on January 1, 2018, for all cases. Also see Don Stemen and David Olson, *Dollars and Sense in Cook County: Examining the Impact of General Order 18.8A on Felony Bond Court Decisions, Pretrial Release, and Crime*, Loyola University Chicago, Safety and Justice Challenge, 2020, 3, <https://www.safetyandjusticechallenge.org/wp-content/uploads/2020/11/Report-Dollars-and-Sense-in-Cook-County.pdf>. However, the SAFE-T Act, which effectively ended money bail in Illinois, rendered the order moot. See Stephanie Wylie and Ames Grawert, *Challenges to Advancing Bail Reform*, Brennan Center for Justice, April 2024, 12, <https://www.brennancenter.org/our-work/research-reports/challenges-advancing-bail-reform>.

Kentucky

Ky. Rev. Stat. Ann. § 431.066 (2024). For further background, see Colin Doyle, Chiraag Bains, and Brook Hopkins, *Bail Reform: A Guide for State and Local Policymakers*, Harvard Law School Criminal Justice Program (2019), 39–42, <https://static.prisonpolicy.org/scans/Harvard%20Guide%20to%20Bail%20Reform.pdf>; and Alysia Santo, “Kentucky’s Protracted Struggle to Get Rid of Bail,” *Marshall Project*, November 12,

2015, <https://www.themarshallproject.org/2015/11/12/kentucky-s-protracted-struggle-to-get-rid-of-bail/>.

Maryland

Md. R. 4-216.1, Pretrial Release – Standards Governing (July 1, 2017), <http://home.ubalt.edu/id86mp66/PTJC/Md.%20Rule%204-216.1.PDF>. For criticisms that the bail reform has not meaningfully reduced jail populations, has increased “no bail holds,” and hasn’t improved bail hearings in the state’s second-biggest county by population, see Color of Change, *Prince George’s County: A Study of Bail*, June 2018, https://static.colorofchange.org/static/v3/pg_report.pdf. Another report found that the percentage of people held in Baltimore City without bonds remained steady despite arrest numbers going down during the pandemic; see Jerry Iannelli, “As Covid-19 Permeates Prisons and Jails, Baltimore Defendants Continue to Be Held Without Bail,” *Appeal*, July 14, 2020, <https://theappeal.org/baltimore-defendants-held-without-bail/>.

Massachusetts

Boston. Suffolk County District Attorney’s Office, *The Rachael Rollins Policy Memo*, March 25, 2019, Appendix B, B-1–B-4, <https://files.suffolkdistrictattorney.com/The-Rachael-Rollins-Policy-Memo.pdf> (describing the office’s policy on bail, pretrial detention, and presumptive release). For concerns about effective implementation and general criticisms of the policy, see Walter Wuthmann, “Rachael Rollins, 100 Days In: What Has Changed, and What Hasn’t, Under the Reformer DA,” WBUR, April 12, 2019, <https://www.wbur.org/news/2019/04/12/rachael-rollins-first-100-days>.

Missouri

Order dated June 30, 2019, clarifying orders re: Rules 21, 22 and 33, Supreme Court of Missouri (2019), <https://www.courts.mo.gov/page.jsp?id=141914>. Also see order dated December 18, 2018, re: Rules 21, 22 and 33, Supreme Court of Missouri (2018), <https://www.courts.mo.gov/page.jsp?id=134633> (enacting the reform and noting an effective date of July 1, 2019). For a commentary on the implications of the state’s bail reform for Missouri’s public defenders and indigent defendants, see Dana Kramer, “Bail Reform: A Possible Solution to Missouri’s Broken Public Defender System?,” *Missouri Law Review* 85, no. 1 (Winter 2020): 297–319, <https://scholarship.law.missouri.edu/cgi/viewcontent.cgi?article=4423&context=mlr>.

St. Louis. In 2017 St. Louis Circuit Attorney Kim Gardner partnered with the Vera Institute of Justice’s Reshaping Prosecution Program to collect and analyze data to guide policy development. See Ahki Johnson and Stephen

Roberts, *Reshaping Prosecution in St. Louis: Lessons from the Field*, Vera Institute of Justice, October 2020, foreword, <https://www.vera.org/downloads/publications/reshaping-prosecution-in-st-louis.pdf>. Two years later, the office formalized a policy reducing the use of cash bail. However, some policy changes had gone into effect prior to that announcement. Rachel Lippman, “Gardner Pledges More Court Diversion, Less Cash Bail,” St. Louis Public Radio, January 30, 2019, <https://news.stlpublicradio.org/government-politics-issues/2019-01-30/gardner-pledges-more-court-diversion-less-cash-bail> (referencing the use of summonses in misdemeanor cases). As a result, we treat Circuit Attorney Gardner’s inauguration as the “start” of prosecutor-led bail reform in St. Louis. Note that those efforts came to an end after the study period concluded. In May 2023, Gardner resigned “following threats from the Missouri state legislature to pass a bill stripping her office of power.” See Akela Lacy, “Why St. Louis’s Reform DA Kim Gardner Quit,” *Intercept*, May 6, 2023, <https://theintercept.com/2023/05/06/kim-gardner-st-louis-da-resigns-reform/>.

New Jersey

P. L. 2014, c.31 (C.2A:162-15 et seq.) (2014), https://pub.njleg.state.nj.us/Bills/2014/PL14/31_PDF; and Attorney General Law Enforcement Directive No. 2016-6, Christopher S. Porrino, New Jersey Attorney General, October 11, 2016, 8, https://www.nj.gov/lps/dcj/agguide/directives/2016-6_Law-Enforcement.pdf (noting an effective date of January 1, 2017, for the “Bail Reform Law”).

New York

2019 N.Y. Sess. Laws, Ch. 59 (S. 1509-C), Part III, amending (inter alia) N.Y. Crim. Proc. L. § 510.10. This legislation was subsequently revised within our study period and twice thereafter. See 2020 N.Y. Sess. Laws, Ch. 56 (S. 7506-B), Part UU (2020); 2022 N.Y. Sess. Laws, Ch. 56 (S. 8006-C), Part UU, Subpart B (2022); and 2023 N.Y. Sess. Laws, Ch. 56 (S. 4006-C), Part VV, Subpart A (2023). This report’s model does not account for the spring 2020 revision, for two reasons. First, it operated within the same framework established by the 2019 legislation. Second, it is not clear how many cases the change may have affected. See René Ropac and Michael Rempel, *Does New York’s Bail Reform Law Impact Recidivism? A Quasi-experimental Test in New York City*, Data Collaborative for Justice, March 2023, <https://datacollaborativeforjustice.org/work/bail-reform/does-new-yorks-bail-reform-law-impact-recidivism-a-quasi-experimental-test-in-new-york-city/> (arguing that the 2020 revisions may have successfully targeted a relatively small subset of cases for people whose rearrest rates rose after 2019). We selected an effective date of January 1, 2020, despite the partial imple-

mentation of bail reform in some courtrooms in November 2019. See Heather Yakin, “Memo: Judges Can Free Defendants Before Jan. 1 Start of Bail Reform,” *Times Herald-Record*, November 7, 2019, <https://www.recordonline.com/story/news/2019/11/08/memo-judges-can-free-defendants/2343116007/>.

New York City. Brooklyn and Manhattan prosecutors had already implemented some form of prosecutor-led bail reform for misdemeanor cases. See James C. McKinley Jr., “Some Prosecutors Stop Asking for Bail in Minor Cases,” *New York Times*, January 9, 2018, <https://www.nytimes.com/2018/01/09/nyregion/bail-prosecutors-new-york.html> (noting policy changes effective in Brooklyn in April 2017 and in Manhattan in January 2018). We exclude these prosecutor-led initiatives to focus on the effect of the much broader 2020 legislation.

Ohio

In 2020 the Ohio Supreme Court adopted major changes to the state’s rules of practice and procedure, including a rewrite of Ohio Rule of Criminal Procedure 46 governing bail and pretrial detention. Effective July 1, 2020, the revision — as relevant here — directed judges to release defendants with the “least restrictive conditions” that would “reasonably assure” return to court, public safety, and integrity of the judicial process. It also made clear that monetary conditions could be imposed “to reasonably assure the defendant’s future appearance in court.” See Amendments to the Supreme Court of Ohio, Ohio Rules of Practice and Procedure (2020), 29–32, <https://www.supremecourt.ohio.gov/ruleamendments/documents/4.22.20%20Posting.pdf>. In January 2022, the Ohio Supreme Court held that this language precluded judges from setting money bail on the basis of a concern about public safety. If prosecutors believed a defendant presented a threat to public safety, they were obligated to move for detention and follow the procedures set out for those motions — not use unaffordable money bail as an end run around the process. See *DuBose v. McGuffey*, 168 Ohio St.3d 1, 2022-Ohio-8, 195 N.E.3d 951, at ¶¶ 20–25. In response, the legislature proposed an amendment to the state constitution requiring courts to consider public safety when setting bail. Sub. H.R.J. 2, 134th Gen. Assemb., Article 1, Joint Resolution (Ohio, 2022) <https://publicfiles.ohiosos.gov/free/publications/SessionLaws/134/134-HJR-002.pdf>. Voters adopted the amendment by an overwhelming margin. See “Ohio Election Results,” *New York Times*, updated December 14, 2022, <https://www.nytimes.com/interactive/2022/11/08/us/elections/results-ohio.html>. The Ohio Supreme Court voted to repeal Criminal Rule 46 to ensure compliance with the new constitutional language. See Nick Evans, “Last Year’s Cash Bail Amendment from Lawmakers Put Ohio’s Entire Pretrial Release System in Jeopardy,” *Ohio*

Capital Journal, May 23, 2023, <https://ohiocapitaljournal.com/2023/05/23/last-years-cash-bail-amendment-from-lawmakers-put-ohios-entire-pretrial-release-system-in-jeopardy/>. With the court’s repeal due to go into effect on July 1, 2023, thereby leaving the court without consistent or uniform pretrial detention standards, Ohio approved an emergency measure in June 2023 to codify Criminal Rule 46. See H.B. 191, 135th Gen. Assemb., Reg. Sess. §1 et seq. (Ohio, 2023), <https://www.legislature.ohio.gov/legislation/135/hb191>. Also see Nick Evans, “Ohio Senate Approves Emergency Measure to Codify Bail Rules,” *Ohio Capital Journal*, June 1, 2023, <https://ohiocapitaljournal.com/2023/06/01/ohio-senate-approves-emergency-measure-to-codify-bail-rules/>.

Pennsylvania

Philadelphia. Philadelphia District Attorney’s Office, “Larry Krasner Announces End to Cash Bail in Philadelphia for Low-Level Offenses,” press release, February 21, 2018, <https://phillyda.wordpress.com/2018/02/21/larry-krasner-announces-end-to-cash-bail-in-philadelphia-for-low-level-offenses/> (noting an immediate effective date). The announcement lists the 25 charges that no longer require cash bail and “marks the first of an ongoing review of cash bail.” For the March 2020 policy shift, see Philadelphia District Attorney’s Office, “District Attorney Krasner Announces Acceleration of DAO Reforms in Response to COVID-19 Emergency,” March 16, 2020, <https://medium.com/philadelphia-justice/district-attorney-krasner-announces-acceleration-of-dao-reforms-in-response-to-covid-19-emergency-e2340f587f25> (noting an effective date of March 17, 2020). For criticism of that reform, see Philadelphia Bail Fund, “Rhetoric vs. Reality: The Unacceptable Use of Cash Bail by the Philadelphia District Attorney’s Office During the COVID-19 Pandemic,” July 2020, https://static1.squarespace.com/static/591a4fd51b10e32fb50fbc73/t/5f21f83dc3d7a32b5c7e9c09/1596061764705/PBF_RhetoricvsReality_072920.pdf.

Texas

Austin. For court-led reforms, see C-1-CR-11-100054, Standing Order for Personal Bonds on Misdemeanor Cases in Travis County Court at Law, February 6, 2020, <https://www.traviscountytexas.gov/images/courts/Docs/ccl-standing-order-personal-bonds.pdf>. Some county officials and judges noted that the policy had little impact, as the large majority of those arrested (70 percent of all offenses) were already being released on personal bonds. See Michael King, “Travis Judges Loosen Misdemeanor Bond Requirements,” *Austin Chronicle*, February 7, 2020, <https://www.austinchronicle.com/daily/news/2020-02-07/travis-judg->

[es-loosen-misdemeanor-bond-requirements/](https://www.austinchronicle.com/daily/news/2020-02-07/travis-judges-loosen-misdemeanor-bond-requirements/). For prosecutor-led reforms, see Travis County District Attorney’s Office, “Guidelines for the TCDA Prosecution of Cases,” April 28, 2021, https://www.traviscountytexas.gov/images/district_attorney/docs/Case_Guidelines.pdf.

Dallas. John Creuzot, District Attorney, to the People of Dallas County, April 11, 2019, https://www.texasobserver.org/wp-content/uploads/2019/04/Official-DACreuzot-PoliciesLetter_April2019.pdf.

Houston. In May 2016, plaintiff Maranda Lynn O’Donnell — who was arrested for driving with an invalid license and detained when unable to afford the \$2,500 bail — filed a class action suit against Harris County alleging that the bail system violated the Equal Protection and Due Process Clauses of the United States Constitution. *O’Donnell v. Harris County* (“O’Donnell I”), 251 F. Supp. 3d 1052, 1062–64 (S.D. Tex. 2017), *aff’d in part*, 882 F.3d 528 (5th Cir. 2018), and *aff’d in part*, 892 F.3d 147 (5th Cir. 2018) (en banc). In April 2017, the court entered a preliminary injunction, holding that Harris County did not provide sufficient safeguards for the due process and equal protection rights of indigent people arrested for misdemeanors. See Order of Preliminary Injunction, U.S. District Court for the Southern District of Texas, Houston Division, April 28, 2017, <https://clearinghouse.net/doc/88524/>. Also see Civil Rights Litigation Clearinghouse, “Case: O’Donnell v. Harris County,” accessed April 18, 2024, <https://clearinghouse.net/case/15377/> (providing full case narrative). Following extensive litigation, a consent decree was negotiated and approved in November 2019, requiring release or unsecured bail for most misdemeanor offenses and requiring individualized ability-to-pay determinations. See Consent Decree, U.S. District Court for the Southern District of Texas, Houston Division, November 21, 2019, https://jad.harriscountytexas.gov/Portals/70/documents/ODonnell_Consent_Decree_CJ-TX-0010-0025.pdf. Also see *O’Donnell I*, 251 F. Supp. 3d at 1161–65 (describing initial preliminary injunction, to take effect May 15, 2017). Mindful of this complicated procedural history, we follow other work on Harris County in dating the effective date of misdemeanor bail reform to June 2017. See Paul Heaton, *The Effects of Misdemeanor Bail Reform*, University of Pennsylvania Quattrone Center for the Fair Administration of Justice, August 16, 2022, 7, <https://www.law.upenn.edu/institutes/quattronecenter/reports/bailreform/#/>.

Virginia

2021 Virginia Laws 1st Sp. Sess. Ch. 337 (S.B. 1266) (2021), <https://lis.virginia.gov/cgi-bin/legp604.exe?212+ful+CHAP0337>, codified at Va. Stat. § 19.2-120 (2021).

Washington, DC

DC Code § 23-1321 (2024), <https://code.dccouncil.gov/us/dc/council/code/sections/23-1321>. For further information, see Doyle et al., *Bail Reform: A Guide*, 35–38.

Appendix B: Literature Review

Research on the relationship between bail reform and crime trends has tended to focus on individual jurisdictions rather than to attempt, as in this report, a comparison across jurisdictions. (The two exceptions are detailed below.) Additionally, many single-jurisdiction studies are descriptive rather than causal — comparing, for example, rearrest rates before and after bail reform. Analyses focused on identifying a causal relationship between changes in bail policy and crime have emerged only recently.

In general, comparative work has yielded mixed results. However, analyses using sophisticated econometric tools — such as quasi-experimental models — have found either no relationship between bail reform and crime rates or limited increases in the latter. The latest single-jurisdiction research strives to move beyond this stalemate by distinguishing between the effects of bail reform in the aggregate and on specific types of cases.

Multijurisdictional studies. We are aware of two papers evaluating the impact of bail reform on public safety outcomes. One provides descriptive statistics of crime trends before and after bail reform, finding at most small changes in crime trends after reform. Notably, the authors acknowledged the need for causal research on the relationship between bail reform and crime, a gap that this study seeks to fill.⁵⁰ As our own analysis was being finalized, a second multi-jurisdictional study was published, by CUNY’s Institute for State and Local Government. It draws on city- and case-level data to establish that there is no relationship between falling incarceration rates and crime. The paper also demonstrated low recidivism among people released pretrial.⁵¹ In other words, the authors reach conclusions similar to our own, despite drawing on different data types and focusing on different outcomes.

Chicago. In Cook County, Illinois, a court order required judges to consider release without monetary bail and take into account a defendant’s ability to pay. A 2019 study by the court system found no increase in crime following reform; this conclusion was then disputed by a 2020 study showing an increase especially in new crimes committed by people released pretrial.⁵² But a 2021 study using more robust data found that after reform the number of people

released pretrial increased with no change in the amount of crime in Chicago in the year after the reforms.⁵³ This study also addressed the findings in the previous analyses, pointing to methodological shortcomings.⁵⁴

Houston. In the late 2010s, Harris County, Texas, revised its misdemeanor bail practices pursuant to a consent decree. Studies of this change exemplify the dynamic described above. Government agencies looked at the effects of bail reform using simple before-and-after comparisons, coming to conflicting conclusions. For instance, an analysis by the Harris County District Attorney’s Office found that misdemeanor bail reform resulted in higher recidivism and higher crime rates.⁵⁵ But a memo to the Harris County Commissioners Court published by the county’s Justice Administration Department disagreed, noting that crime did not increase until partway through 2020, years after bail reform went into effect, suggesting that the timing of the increase in crime could have been due to other factors, such as the Covid-19 pandemic.⁵⁶ When economist Paul Heaton used a difference-in-differences design to study the impact of bail reform on key case metrics, however, he found that court-ordered reform increased release rates, decreased conviction rates, and did not result in an increase in future crime.⁵⁷

New Jersey. On January 1, 2017, New Jersey shifted from a heavy reliance on monetary bail to a system based on assessments of people’s risk of failing to appear in court and of being charged with a new crime if released.⁵⁸ A study of the aftermath of this reform found that the number of arrests decreased after the reforms, with a shift toward the use of complaint summonses.⁵⁹ Regular reports by the state judiciary indicate that the rate of re-arrest for those released pretrial was steady from 2017 to 2019, with an increase in rearrest rates in 2020 that the judiciary attributed to the Covid-19 pandemic. But the percentage of defendants charged with serious crimes declined, dropping below the pre-reform baseline.⁶⁰ More recently, a study by scholars focusing on public health found, using a synthetic control model, that bail reform in New Jersey had no effect on firearm mortality or gun violence.⁶¹

New Mexico. In 2017 New Mexico modified its bail practices to, among other changes, consider an individual’s ability to afford bail. An analysis across six cities found that these reforms decreased the number of people ordered to pay bail. Failure to appear increased after these reforms, as did the number of offenses and violent offenses committed during pretrial release. But all increases were relatively slight, with the rate of reoffending rising just 1 percent and the rate of new violent offenses increasing from 8 percent to 9.7 percent.⁶² The authors also noted that violent crime throughout the state rose during the period studied. Importantly, the

incidence of violent crime among those released pretrial was substantially less than the overall rate of increase in violent crime in the state, suggesting that other factors may have been at work.⁶³

New York. Multiple papers have sought to study the impact of bail reform in New York on crime. Taken together, the papers suggest that bail reform may not have increased aggregate rearrests but may have increased recidivism in some types of cases. Such a finding underscores the need for precision when studying bail reform.

One of the first papers on the issue used a synthetic control model and a limited dataset, covering crime in New York City through the first quarter of 2020. The authors concluded that there was no “statistically significant evidence of an increase in aggregate crime.”⁶⁴ Although they did find a statistically significant increase in robbery, they candidly acknowledged significant limitations related to their findings.⁶⁵ Another analysis used a pair of methodological approaches to conclude that though murder, larceny, and auto theft rates increased after bail reform, the increases were not, after accounting for the effects of the Covid-19 pandemic, caused by bail reform.⁶⁶ On the contrary, the authors found that bail reform had little if any impact on crime during this time, even as total jail populations fell.⁶⁷

A series of studies published by the Data Collaborative for Justice (DCJ) show more complicated results. In a pair of studies of New York City using different methodological approaches, DCJ demonstrated that eliminating the

ability to set bail for select charges — mainly misdemeanors and nonviolent felonies — was not associated with increases in rearrest rates.⁶⁸ However, when DCJ looked at “high-risk” individuals, namely people with a pending criminal case or recent violent arrest, there was an increase in rearrests. DCJ’s March 2023 recidivism study found this result to be statistically significant.⁶⁹ But its October 2023 study, which applied a different methodology, found a statistically significant increase in rearrests only for violent rearrests within the pretrial period.⁷⁰ Notably, an April 2024 analysis covering all of the state except New York City’s five boroughs, however, found increases in rearrests in several subsets of cases but declines among “people charged with misdemeanors and people with no recent criminal history.”⁷¹

Philadelphia. In 2018 the Philadelphia District Attorney’s Office implemented a new cash bail policy in which no cash bail is presumed for some enumerated charges.⁷² A study one year later found that the release rate increased for both misdemeanors and felonies, while the recidivism rate decreased by 1 percent for misdemeanors and 2 percent for felonies.⁷³ However, a subsequent study questioned the policy’s impact. That analysis found that most of the increase in releases stemmed from a decline in requests for bail of \$5,000 or less and that the policy “had no impact on pretrial detention rates.”⁷⁴ Most defendants who benefited from the policy, the study found, would have posted bail or agreed to conditional release on unsecured bail.⁷⁵

Endnotes

- 1 See generally Stephanie Wylie and Ames Grawert, *Challenges to Advancing Bail Reform*, Brennan Center for Justice, April 10, 2024, 2–4, table 1, <https://www.brennancenter.org/our-work/research-reports/challenges-advancing-bail-reform>.
- 2 For examples of how arguments over the relationship between bail reform and crime have affected state and national politics, see Anna Gronewold, “New York Democrats Didn’t Defend Their Bail Law Changes. It Bit Them at the Polls,” *Politico*, November 27, 2022, <https://www.politico.com/news/2022/11/27/new-york-democrats-bail-law-00070800>; and Matt Friedman and Joseph Spector, “New Jersey Overhauled Its Bail System Under Christie. Now Some Democrats Want to Roll It Back,” *Politico*, December 11, 2022, <https://www.politico.com/news/2022/12/11/new-jersey-bail-system-roll-back-00072781> (noting challenges to bipartisan bail reform in New Jersey). For a discussion of media portrayals of bail reform in New York, see Laura Bennett and Jamil Hamilton, *Freedom, Then the Press: New York Media and Bail Reform*, fwd.us, April 2, 2021, <https://www.fwd.us/news/new-york-media-and-bail-reform/>.
- 3 For a thorough discussion of bail reform, jurisdictions that enacted rollbacks, and the political dynamics surrounding bail policy, see Wylie and Grawert, *Challenges to Advancing Bail Reform*.
- 4 See, for example, René Ropac and Michael Rempel, *Does New York’s Bail Reform Law Impact Recidivism? A Quasi-experimental Test in New York City*, Data Collaborative for Justice, March 2023, <https://datacollaborativeforjustice.org/wp-content/uploads/2023/03/RecidivismReport-4.pdf> (about New York State); Paul Heaton, *The Effects of Misdemeanor Bail Reform*, University of Pennsylvania Quattrone Center, August 16, 2022, <https://www.law.upenn.edu/institutes/quattronecenter/reports/bailreform/#/> (about Harris County, Texas); and Don Stemen and David Olson, *Dollars and Sense in Cook County: Examining the Impact of General Order 18.8A on Felony Bond Court Decisions, Pretrial Release, and Crime*, Loyola University Chicago, Safety and Justice Challenge, November 19, 2020, 1–2, <https://safetyandjusticechallenge.org/wp-content/uploads/2021/06/Report-Dollars-and-Sense-in-Cook-County.pdf> (about Cook County, Illinois).
- 5 See, e.g., N.Y. Crim. Proc. L. § 500.10(3-a).
- 6 Money bail was relatively uncommon before the 20th century. See, for example, *Rowe v. Raoul*, 2023 IL 129248, ¶ 32 (July 18, 2023) (noting the rarity of money bail in Illinois in the 19th century).
- 7 For more on the history of bail policy and its role in the criminal justice system, see Wylie and Grawert, *Challenges to Advancing Bail Reform*, 2.
- 8 We are aware of three states — Arkansas, New York, and North Dakota — where the bail inquiry remains focused on helping ensure people’s return to court. See Ark. R. Crim. P. 9.2(a) (authorizing money bail only where “no other conditions will reasonably ensure the appearance of the defendant in court”); N.Y. Crim. Proc. L. § 510.10(1) (focusing the release inquiry on whether “the principal poses a risk of flight”); and N.D. R. Crim. P. 46(a)(1) (requiring release unless it will not “reasonably assure the appearance of the person” in court). In New York, courts certainly may consider public safety factors at different phases of the bail-setting process. See N.Y. Crim. Proc. L. § 510.10(1)(a)–(j) (permitting judges to consider “the principal’s criminal conviction record” when evaluating the likelihood of flight). But in each, risk of flight — rather than a perceived public safety risk — remains the threshold question when deciding whether to impose money bail. Some other states permit judges to set release conditions based on perceived public safety risk in some cases but not all. See Wis. Stat. Ann. ch. 969.01(b)(1)–(2) (violent crimes only); and Vt. Stat. Ann. § 7553a (same). But the vast majority of states authorize judges to consider the protection of public safety when setting bail or imposing other conditions for release in any case. See, e.g., Cal. Pen. Code § 1275; and Mass. G. L. c. 276, § 57.
- 9 See Nick Pinto, “The Bail Trap,” *New York Times*, August 13, 2015, <https://www.nytimes.com/2015/08/16/magazine/the-bail-trap.html>.
- 10 For a discussion of the dynamics surrounding the passage of bail reform in New York State, see Emma Whitford, “A Closer Look at Albany Democrats’ Compromise on Bail Reform,” *Gotham Gazette*, April 5, 2019, <https://www.gothamgazette.com/state/8420-a-closer-look-at-albany-democrats-compromise-on-bail-reform>. For a discussion of the role of cost containment in the push for bail reform in Alaska, see Michael A. Rosengart, “Justice Reinvestment in Alaska: The Past, Present, and Future of SB 91,” *Alaska Law Review* 34, no. 2 (2017): 245–49, <https://scholarship.law.duke.edu/cgi/viewcontent.cgi?article=1534&context=alr>. For a discussion of the role of public safety in bail reform in New Jersey, see Friedman and Spector, “New Jersey Overhauled Its Bail System”; Gov. Chris Christie, “State of the State Address (2014),” January 14, 2014, https://www.washingtonpost.com/politics/full-text-of-new-jersey-gov-chris-christies-2014-state-of-the-state-speech/2014/01/14/8fd12f08-7d55-11e3-9556-4a4bf7bcbd84_story.html.
- 11 See, e.g., N.Y. Crim. Proc. L. § 510.10 (limiting discretion to set money bail for most misdemeanors and lower-level felonies); P. L. 2014, c. 31 (C.2A:162-15 et seq.) (2014), <https://pub.njleg.state.nj.us/Bills/2014/PL14/31.PDF>; S.B. 91, 29th Leg., 2d. Sess. §§ 59, 117 (Alaska 2016), <https://www.akleg.gov/basis/Bill/Text/29?Hsid=SB0091Z>, codified at Alaska Stat. § 12.30.011(b)(1) (basing release decisions on risk score as determined by a risk assessment system); and H.B. 2003, § 16, codified at Utah Code Ann. §§ 77-20-205(7)(a).
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[crime-fact-check/index.html](#) (“During a congressional hearing in late June, Sen. Lindsey Graham, a South Carolina Republican, suggested reforms eliminating cash bail could partially be to blame for the recent spike in crime.”). This narrative was especially pronounced in New York. See Anne Gronewold, “New York Democrats Didn’t Defend Their Bail Law Changes. It Bit Them at the Polls,” *Politico*, November 27, 2022, <https://www.politico.com/news/2022/11/27/new-york-democrats-bail-law-00070800> (“Republicans blasted the airwaves . . . with sepia-toned conjectures that the bail laws, which Democrats have tweaked twice since passing, have been responsible for rising crime.”). For the limited role of data in these arguments, see Wylie and Grawert, *Challenges to Advancing Bail Reform*, 5–7.

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20 Some studies have found relatively small increases in crime after bail reforms were put in place. See René Ropac, *Does New York’s Bail Reform Law Impact Recidivism?*, 28; and Stemen and Olson, *Dollars and Sense in Cook County*, 1–2 (discussing claims that Cook County bail reform led to rising crime).

21 John Roman, “Violence Is Plummeting in the US!,” *External Processing*, May 4, 2024, <https://johnkroman.substack.com/p/violence-is-plummeting-in-the-us>; John Pfaff, “Two Big Thoughts About the Steep Crime Drop,” *Vital City*, February 28, 2024, <https://www.vitalcitynyc.org/articles/two-big-thoughts-about-the-steep-crime-drop> (citing Roman’s work); and Grawert and Kim, “Myths and Realities.”

22 Kate Lisa, “NYPD Officer’s Death Provokes Talks of More Bail Reform Rollbacks,” *Spectrum News* 1, April 3, 2024, <https://spectrumlocalnews.com/nys/central-ny/politics/2024/04/04/nypd-officer-s-death-provokes-talks-of-more-bail-reform-rollbacks>; and “Former President Trump Holds Rally in Green Bay, Wisconsin,” *CSPAN*, <https://www.c-span.org/video/?534536-1/president-trump-holds-rally-green-bay-wisconsin> (50:00).

23 One recent paper provides descriptive statistics of crime rates before and after bail reform from a series of cities, finding that “neither violent nor nonviolent crimes or charges increased markedly immediately after jurisdictions implemented bail reform.” This is an important and timely insight on an urgent public policy question. However, the authors acknowledge the need for causal analyses, a gap that this paper aims to fill. Don Stemen and David Olson, *Is Bail Reform Causing an Increase in Crime?*, Harry Frank Guggenheim Foundation, January 2023, 9–10, <https://www.hfg.org/wp-content/uploads/2023/01/Bail-Reform-and-Crime.pdf>. Additionally, as this paper was being finalized, CUNY’s Institute for State and Local Government released an analysis drawing on city- and case-level data to show, first, that there was no apparent relationship between falling pretrial incarceration rates and crime; and, second, that recidivism statistics indicated that people released pretrial were not driving changes in crime rates. Sara Khan, Emily West, and Stephanie Rosoff, *Lowering Jail Populations Safely Before, During, and After COVID-19*, CUNY Institute for State and Local Government, 2024, <https://safetyandjusticechallenge.org/wp-content/uploads/2024/07/Lowering-Jail-Populations-Safely-Before-During-and-After-COVID-19-Full-Report-July-2024.pdf>. This complementary approach to the question of pretrial reform reinforces our own conclusions. If recidivism is rare among people released pretrial, we would not expect reforms related to pretrial release to have a significant impact on crime rates.

24 One line of research suggests a need for further analysis on how bail reform affects outcomes in cases involving defendants with a recent, prior criminal history. See Stephen Koppel and René Ropac, *Examining the System-Wide Effect of Eliminating Bail in New*

York City: A Controlled-Interrupted Time Series Study, Data Collaborative for Justice at John Jay College, October 2023, 19, https://datacollaborativeforjustice.org/wp-content/uploads/2023/10/cits_final.pdf. For other research, see Heaton, *The Effects of Misdemeanor Bail Reform*, 39–43.

25 Reform jurisdictions (20) were: Atlanta, GA; Austin, TX; Baltimore, MD; Boston, MA; Buffalo, NY; Chicago, IL; Cincinnati, OH; Colorado Springs, CO; Dallas, TX; Denver, CO; Houston, TX; Kansas City, MO; Los Angeles, CA; New York, NY; Newark, NJ; Philadelphia, PA; Sacramento, CA; San Francisco, CA; St. Louis, MO; and Virginia Beach, VA. Control jurisdictions (10) were: Detroit, MI; Memphis, TN; Mesa, AZ; Milwaukee, WI; Nashville, TN; New Orleans, LA; Phoenix, AZ; Raleigh, NC; Seattle, WA; and Tucson, AZ. Two other jurisdictions — Louisville, KY, and Washington, DC — feature bail reforms that went into effect before our study period and were considered treated for some analyses. Another — Portland, OR — adopted reforms after the study period and is not considered a reform jurisdiction during our study period. For sources, see the methodological supplement.

26 In nearly all cases, crime data was obtained from open data sources maintained by researchers or police agencies. One notable exception is the data for Newark, New Jersey. During data collection we could find no publicly available data on crime in New Jersey cities, at least not covering the entirety of our study period. Because New Jersey significantly reworked its bail system in 2017, though, we felt that it would be an oversight not to include at least one city from the Garden State. After filing open records requests with police departments in New Jersey’s largest cities, we were ultimately able to acquire data from Newark.

27 “Offense Definitions,” *Crime in the United States — 2019*, Federal Bureau of Investigation, accessed April 20, 2024, <https://ucr.fbi.gov/crime-in-the-u.s./2019/crime-in-the-u.s.-2019/topic-pages/offense-definitions>. Arson is technically a Part I offense but is excluded in most if not all discussions of national crime trends. We follow the lead of other researchers and exclude it here too. See Ernesto Lopez, Richard Rosenfeld, and Bobby Boxerman, “Crime Trends in U.S. Cities: Mid-Year 2023 Update,” Council on Criminal Justice, July 2023, <https://counciloncrj.org/mid-year-2023-crime-trends/>. Rape is also excluded from this report, as many cities in this sample did not report counts of this offense.

28 For example, the FBI does not include embezzlement in its definition of larceny. Federal Bureau of Investigation, *Summary Reporting System (SRS) User Manual* 46–47 (2013) (on file with the authors). That rule was then applied across cities to ensure offenses were counted similarly between them.

29 As discussed in the methodological supplement, the FBI’s definition of larceny encompasses *any* theft, therefore sweeping in lower-level thefts likely to be misdemeanors under local law.

30 The authors were guided by two previous studies that also collected state and local bail reforms: Isabella Jorgensen and Sandra Susan Smith, *The Current State of Bail Reform in the United States: Results of a Landscape Analysis of Bail Reforms Across All 50 States*, Harvard Kennedy School Faculty Research Working Paper Series RWP21-033, December 2021, <https://www.hks.harvard.edu/publications/current-state-bail-reform-united-states-results-landscape-analysis-bail-reforms-across>; and Stemen and Olson, *Is Bail Reform Causing an Increase in Crime?*. Because we supplemented the analysis in those two reports with further research, details and effective dates may differ.

31 See *In re Humphrey*, 482 P.3d 1008 (Cal. 2021); and “*In re Humphrey*: California Supreme Court Holds Detention Solely Because of Inability to Pay Bail Unconstitutional,” *Harvard Law Review* 135, no. 3 (January 2022): 912, <https://harvardlawreview.org/print/vol-135/in-re-humphrey>.

32 Heaton, *The Effects of Misdemeanor Bail Reform*, 39–43.

33 See Aurélie Ouss and Megan T. Stevenson, “Does Cash Bail Deter Misconduct?,” *American Economic Journal: Applied Economics*

15, no. 3 (July 2023): 13–15, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3335138. Such reforms may fall short even when implemented with the best of intentions, due to the complexity of bail policy and the many stakeholders involved. See Wylie and Grawert, *Challenges to Advancing Bail Reform*, 9–10.

34 See New Jersey Courts, *Report of the Reconvened Joint Committee on Criminal Justice*, 2023, <https://www.njcourts.gov/sites/default/files/courts/criminal/criminal-justice-reform/reconvenedcommreport.pdf> (noting the state's post-reform reductions in detention of people accused of lower-level offenses and an especially pronounced decline in detention of those unable to post bail); Heaton, *The Effects of Misdemeanor Bail Reform* (finding statistically significant reductions in detention metrics after misdemeanor bail reform in Harris County, Texas); New York State Division of Criminal Justice Services, *Supplemental Pretrial Release Data Summary Analysis: 2019–2021*, September 21, 2022, 10–11, <https://www.criminaljustice.ny.gov/crimnet/ojsa/pretrial-release/FINAL%20DCJS%20Public%20Briefing%20on%20Supplemental%20Pretrial%20Release%20Data%202019-21-22.pdf> (identifying post-reform drops in bail-setting in New York State and increases in the reliance on less restrictive release conditions, such as pretrial supervision); and Stemen and Olson, *Dollars and Sense in Cook County*, 2 (spotlighting an increase in personal recognizance bonds and pretrial release in Cook County, Illinois, after a county court–led bail reform initiative).

35 Examples of other policy analyses using difference-in-differences estimation include but are not limited to Goltekin Gollu and Mariyana Zapryanova, "The Effect of Medicaid on Recidivism: Evidence from Medicaid Suspension and Termination Policies," *Southern Economic Journal* 89, no. 2 (2022): 326–72, <https://onlinelibrary.wiley.com/doi/abs/10.1002/soej.12600>; Amanda Agan, Jennifer Doleac, and Anna Harvey, "Prosecutorial Reform and Local Crime Rates," Law & Economics Center at George Mason University Scalia Law School Research Paper Series No. 22-011, 2022, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3952764; Daniel Shoag and Stan Veuger, "Ban-the-Box Measures Help High-Crime Neighborhoods," *Journal of Law and Economics* 64, no. 1 (2021): 85–105, <https://www.journals.uchicago.edu/doi/abs/10.1086/711367>; and Terry-Ann Craigie, "Ban the Box, Convictions, and Public Employment," *Economic Inquiry* 58, no. 1 (2020): 425–45, https://www.researchgate.net/publication/335548082_BAN_THE_BOX_CONVICTIONS_AND_PUBLIC_EMPLOYMENT.

36 Clément de Chaisemartin and Xavier D'Haultfoeuille, "Difference-in-Differences Estimators of Intertemporal Treatment Effects," *Review of Economics and Statistics* (forthcoming), 1–45, https://direct.mit.edu/rest/article-abstract/doi/10.1162/rest_a_01414/119488/Difference-in-Differences-Estimators-of. Similar results can be found in specifications using the estimator introduced by Callaway and Sant'Anna, which also accounts for staggered policy adoption. See Brantly Callaway and Pedro H. C. Sant'Anna, "Difference-in-Differences with Multiple Time Periods," *Journal of Econometrics* 225, no. 2 (2021): 200–230, <https://www.sciencedirect.com/science/article/abs/pii/S0304407620303948>.

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model failed the parallel trends test. But models that violate the parallel trends assumption can still be probative. In our case, reform jurisdictions had greater drops in crime before changes to bail policy went into effect, compared with cities without reform at that time. While complicating any effort to demonstrate any causal effect of bail reform on violent crime, these differences remain consistent with our finding that there is no systematic evidence of a relationship between bail reform and crime. Indeed, if anything this violation of the parallel trends assumption suggests there are systematic differences between reform and non-reform jurisdictions, reinforcing the idea that bail reform is an unlikely explanation for crime in these jurisdictions. For a further discussion of our evaluation of the significance of parallel trends violations, see the methodological supplement.

40 The FBI also defines rape as a violent crime. As discussed above, however, the offense was excluded from this report's dataset due to data quality concerns.

41 This approach ensures a clean comparison but results in changes to the sample size for each analysis, differences that are apparent in the tables provided with the methodological supplement.

42 To our knowledge, no such long-term research has been undertaken to date, likely due in part to the relative recency of major reforms. Simply put, more time and data may be needed to do this work. However, it is worth noting that research by the Data Collaborative for Justice has consistently found reductions in recidivism in cases involving lower-level offenses even over the short term. See, for example, Ropac and Rempel, *Does New York's Bail Reform Law Impact Recidivism?*

43 See, e.g., Hena Rafiq, Christi Economy, and Lindsay Graef, *Building a Responsive Pretrial Supervision System in Harris County, Texas*, Harvard Kennedy School Government Performance Lab, 2023, https://govlab.hks.harvard.edu/sites/hwpi.harvard.edu/files/govlab/files/harris_co_pretrial_project_feature.pdf?m=1673371592 (detailing the expansion of pretrial supervision in Harris County and efforts to scale the service). Also see Matt Katz, "NYC's Supervised Release Program Swelled After Bail Reform. Now It May Be Overwhelmed," *Gothamist*, June 21, 2023, <https://gothamist.com/news/nycs-supervised-release-program-swelled-after-bail-reform-now-it-may-be-overwhelmed> (describing challenges with expanding supervision to accommodate post-reform needs); and Joshua Solomon, "Underfunded 'Supervised Release' Programs in NY Struggle to Keep Up," *Times Union*, August 14, 2022, <https://www.timesunion.com/state/article/Supervised-release-programs-struggling-to-keep-17370332.php> (same). For a critique of expanded pretrial supervision and the phenomenon of "net widening," in which judges respond to the creation of pretrial service programs by directing people to them who would have previously been released without conditions, see Wylie and Grawert, *Challenges in Advancing Bail Reform*, 10.

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75 Ouss and Stevenson, “Does Cash Bail Deter Misconduct?,” 166–67.

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