

# **PRETRIAL RELEASE PRACTICES IN PALM BEACH COUNTY, FL**

## **An Evaluation of the Effectiveness of Existing Pretrial Release Mechanisms at Promoting Court Appearance and Public Safety**

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## Executive Summary

This report by researchers at Florida State University's College of Criminology and Criminal Justice examines the effectiveness of money bond and other mechanisms of pretrial release at ensuring public safety and court efficiency.

Using administrative data from Palm Beach County, FL spanning a nearly 8-year period, researchers found:

1. Money bond is the most common mechanism of release in Palm Beach County, followed by SOR and OR.

*More than half (53%) of individuals released to the community pending the resolution of their case are released via money bond, 26% are released on pretrial supervision (SOR), and 20% are released on their own recognizance.*

2. Relative to other non-financial alternatives, money bond is associated with longer average detention lengths.

*Individuals released on money bond spend an average of 5.3 days in jail, while those released on supervised recognizance and personal recognizance bonds spend 4.6 and 3.8 days, respectively.*

3. Non-financial alternatives are disproportionately granted to non-Hispanic white individuals, while racial and ethnic minority group members are disproportionately assessed money bond.

*Among pretrial releasees, 46% of white individuals, as compared to 52% and 53% of Black and Hispanic or Latino individuals, respectively, are required to pay a financial sum to secure their release from custody.*

4. Most defendants released from jail pending the resolution of their case neither engage in any new criminal activity nor miss any scheduled court appearances.

*Among those released pretrial, 20% were rearrested for a new crime and 4% failed to appear for a scheduled hearing.*

5. Rates of pretrial failure are largely similar across existing mechanisms, including money bail, SOR, and OR.

Based on these findings, we conclude that measures to increase the use of non-financial alternatives are likely to simultaneously reduce rates of pretrial detention and average detention lengths without any adverse consequences for public safety or court efficiency. Given the disproportionate impact of money bond on Black and Hispanic or Latino communities, such measures may also help to address racial and ethnic disparities.

## Introduction

Over the last several years, Palm Beach County has implemented a range of strategies and related research initiatives to improve the operation of the local criminal justice system. Many of these efforts have centered on reducing the jail population, including pretrial risk assessment, expanded pretrial supervision, and expedited case processing.<sup>1</sup> Since 2016, researchers from Florida State University have partnered with the Palm Beach County Criminal Justice Commission (CJC) on a variety of research activities and evaluation services in support of their ongoing commitment to the MacArthur Foundation’s Safety and Justice Challenge and related jail reduction strategies. In carrying out these activities, FSU has evaluated aspects of the pretrial process, including levels of pretrial compliance and the factors associated with pretrial failure (i.e., pretrial failure to appear, new criminal activity). Yet beyond examining levels of pretrial compliance and the mechanisms underlying non-compliance, an important question is the extent to which existing pretrial release mechanisms are associated with the odds of pretrial failure. Accordingly, the current project focuses on determining the efficacy of money bond, supervised recognizance release, and personal recognizance release in promoting court efficiency and public safety.

To evaluate the efficacy of existing release mechanisms in Palm Beach County, Florida, we leveraged data from the jail, clerk of courts, and pretrial services to compare the odds of new criminal activity and failure to appear during the pretrial period by release category. These research activities progressed in a series of stages. We began by providing a descriptive portrait

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<sup>1</sup> According to recent estimates compiled by the Florida Department of Corrections, more than three-quarters of the inmate population in Palm Beach County is comprised by pretrial defendants (Florida Department of Corrections, 2023); that is, individuals who have been arrested, detained, and are currently awaiting the resolution of their charges. This is consistent—albeit slightly higher—with patterns observed at the national level, where roughly two-thirds of jail inmates have yet to be convicted.

of the pretrial process, including the types of charges, release mechanisms, and prevalence of pretrial failure. In subsequent stages, we estimated a series of multivariate models, in addition to other quasi-experimental approaches, to more adequately provide meaningful comparisons across the release mechanisms, recognizing the potential for differences in the nature of individuals' current charges and the extent of their criminal histories across groups. We concluded with an overview of our findings and related recommendations. Before turning to these findings and discussion points, we provide a brief history of pretrial release and a review of the existing literature.

## **Background**

### *The History of Pretrial Release*

Throughout the criminal case process, the state has a vested interest in maintaining the integrity of the judicial proceedings. This includes making sure that people attend required hearings (Stevenson & Mayson, 2018). For much of the court's history, this has translated to a focus on flight risk, and since the early part of the 20<sup>th</sup> century, money bail was used to ensure individuals' appearance in court (Schnacke, 2014). Early on, money bail operated largely as a system of deposits—that is, individuals would pay a deposit to the court, which would be collected at the resolution of their case. Today, this system largely operates through commercial surety agents (i.e., bail bondsman).

Over the course of the past century, we have witnessed a couple of key developments in the bail system, primarily through actions taken by the courts. For example, in *Stack v. Boyle* (1951) the Supreme Court held that with the exception of certain capital offenses, individuals had the right to bail; individuals' right to release should be “conditioned upon” their giving

adequate assurance that they will attend necessary court hearings; and bail set at an amount higher than what is reasonably needed to ensure court appearance is “excessive.” These findings reflected the court’s prioritization of release pending trial and emphasis on court appearance in making bail determinations, in addition to more clearly defining what constitutes excessive bail. The bail reforms that followed this decision thus focused on creating a presumption of release without financial conditions (see e.g., Wald & Freed, 1966; 18 U.S.C. § 3146(a) (Supp. IV, 1969)).

Rising crime rates during the 1970’s redirected discussions about bail and, eventually, considerations of public safety were added to bail determinations (Goldkamp & Gottfredson, 1985). The practice of considering defendants’ “dangerousness” in addition to their likelihood of court appearance was upheld by the Supreme Court (*United States v. Edwards*) and was later codified in federal legislation. States across the country quickly began to follow suit, and now, with the exception of New York, all jurisdictions consider court appearance and public safety in bail decisions (Goldkamp, 1985; Copp & Casey, 2022).

In the years following these legislative changes, the use of non-financial release mechanisms waned. This occurred despite the establishment of pretrial services agencies, first at the federal level, which were intended to reduce crime by persons released pending trial and reduce unnecessary pretrial detention (Cadigan, 2007). For example, whereas release on recognizance had been the most common pretrial release option in the early 1990s, by 2006, its use had declined by one-third. These declines corresponded to increases in the use of money bail (Hood & Schneider, 2019). And at the same time that money bail overtook non-financial release mechanisms, average bail amounts increased (Copp & Bales, 2018). Because few people have the financial resources to post their bail in full, most elicit the services of a

bail bondsman. Those who are unable to come up with the premium required by the bail bondsman (which averages about 10% of the bail amount) often remain detained until the disposition of their case. Given racial disparities in rates of arrest, and differential abilities to pay money bail based on race/ethnicity and class background (Menefee, 2018), these shifting practices have been linked to widening inequalities that cannot be explained by changes in individual case characteristics (Hood & Schneider, 2019).

### *The Collateral Consequences of Pretrial Detention*

Increasing reliance on money bond, coupled with higher average bond amounts, has contributed to a shift in the jail population, such that more than two-thirds of jail inmates nationally have yet to be convicted of a crime (Zeng & Minton, 2021). In contrast, throughout the 1980s up until the mid-1990s, the convicted and pretrial populations within local jails comprised similar proportions. These changing patterns of jail usage have drawn the attention of researchers, and a small but growing body of research has begun to investigate the consequences of pretrial detention. In a series of empirical studies employing rigorous, quasi-experimental methods, researchers have estimated the causal effects of pretrial detention. The findings from this work indicate that pretrial detention increases defendants' likelihood of conviction and length of the incarceration sentence (Dobbie et al., 2018; Stevenson, 2018), primarily through an increase in guilty pleas (Petersen, 2020). In addition, although pretrial detention is used to promote public safety during the case process, the experience of pretrial detention has been linked to heightened odds of post-disposition recidivism (Leslie & Pope, 2017).

## *The Efficacy of Pretrial Release Mechanisms*

Over the last several years, there have been heightened concerns about America's high levels of pretrial detention and related racial and ethnic disparities. These concerns have been amplified by the recent research findings linking pretrial detention to deleterious case outcomes (in addition to other social and economic consequences). Accordingly, jurisdictions have taken steps to reduce their jail populations in myriad ways; by broadening the range of offenses eligible for release on personal bond prior to seeing a judge (e.g., *ODonnell v. Harris County*), expanding pretrial supervision (e.g., *In re Humphrey*), and limiting the use of cash bail (see e.g., Kentucky, New Mexico, New Jersey, New York). These changes have been accomplished at multiple levels, including in the courts (i.e., class action lawsuits), legislatures, and through local policy reforms. Given the breadth of these changes, it is thus surprising that limited research has considered the efficacy of existing pretrial release mechanisms, including the conditions under which these may prove more (or less) effective.

In an exception, Brooker and colleagues (2014) and Jones (2013) drew on data from Colorado and found no differences in the effectiveness of secured and unsecured bail at either ensuring appearance in court or public safety.<sup>2</sup> Furthermore, these researchers found that secured money bonds were associated with longer average detention lengths, thus resulting in longer periods of pretrial detention than unsecured bonds (Brooker et al., 2013). More recently, scholars have evaluated various reform efforts, including those in New York (Wu & McDowall, 2023), Philadelphia (Ouss & Stevenson, 2019), Chicago (Stemen & Olson, 2020), and Harris County, TX (Heaton, 2022). The findings from this work generally demonstrate that the range of policy changes aimed at reducing the courts' reliance on money bail has

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<sup>2</sup> Secured money bail requires an upfront payment to secure release, whereas an unsecured bond only requires payment if the defendant fails to appear in court.

resulted in increased shares of individuals being released on non-monetary conditions. Moreover, these changes have not translated to increases in new criminal activity (or new violent criminal activity) (Heaton, 2022; Ouss & Stevenson, 2019; Stemen & Olson, 2020), or court non-appearance (Ouss & Stevenson, 2019). Notably, because pretrial reform efforts have tended to focus on misdemeanors and other non-serious offenses, however, the findings from these policy evaluations may not generalize to other contexts where similar measures have not been taken or when focusing on a wider range of case types.

## **Current Project**

### *Data and Methods*

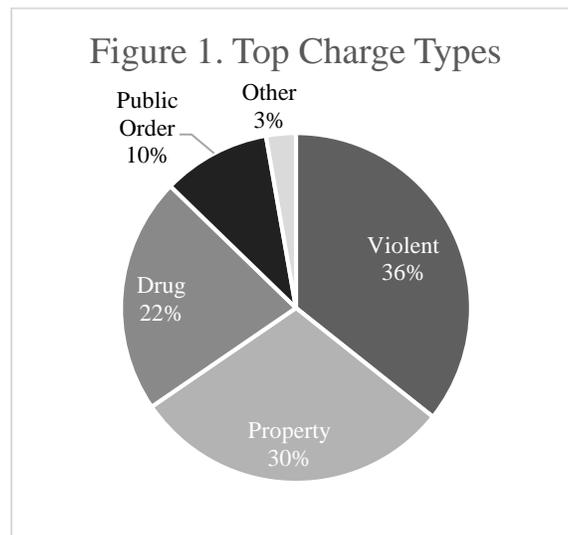
These analyses focused on all individuals booked into the Palm Beach County jail between January 1, 2015 and June 30, 2020 on a felony or misdemeanor charge. We chose these benchmarks based on the data provided; the first booking occurred on January 1, 2015, and the last booking took place on June 30, 2021, and we required 12 months post-release to track outcomes.

A series of outcomes were tracked from the time of booking until the case was disposed or for 12 months, whichever came first. This follow-up period ensured the same duration of at-risk periods for all individuals. The first outcome examined was the initial bond schedule/first appearance decision. The second outcome examined was pretrial detention length. For defendants released pretrial, three additional outcomes were examined: 1) failure to appear (FTA), 2) new criminal activity (NCA), and 3) new violent criminal activity. FTA was defined as a defendant failing to appear for any court event in the case during the follow-up period. New criminal activity was defined as any new booking for a misdemeanor or felony charge during the

follow-up period. We compared outcomes across release mechanisms to determine differences in release type, average detention lengths, and pretrial failure among those released via money bond, SOR, and OR. In a subsequent set of analyses we compared outcomes across judge type, distinguishing between regular and duty judges using judge identifiers from the clerk data.

## Results

We begin with some basic descriptive information about the study sample. During the focal period, 36% of bookings were for alleged violent crimes, the vast majority of which were assaults. Less than 4% of violent crimes constituted more serious charges such as homicide, rape or sexual assault, or robbery. Fewer than one-in-three bookings were for property crimes, the most common of which was larceny. Just over one-in-five cases was drug-related. These were overwhelmingly charges of possession (85%). Roughly one in ten bookings were for public order offenses.

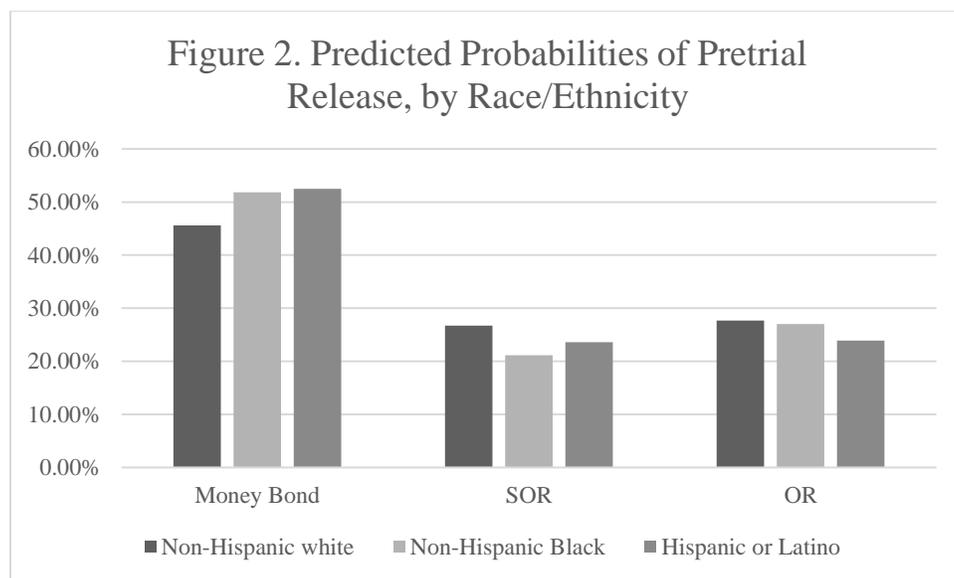


During the study period, more than three quarters of those booked were released via money bond, SOR, or OR at some point prior to the disposition of their case. Among those who were not released via one of these mechanisms prior to the disposition of their case, 92%

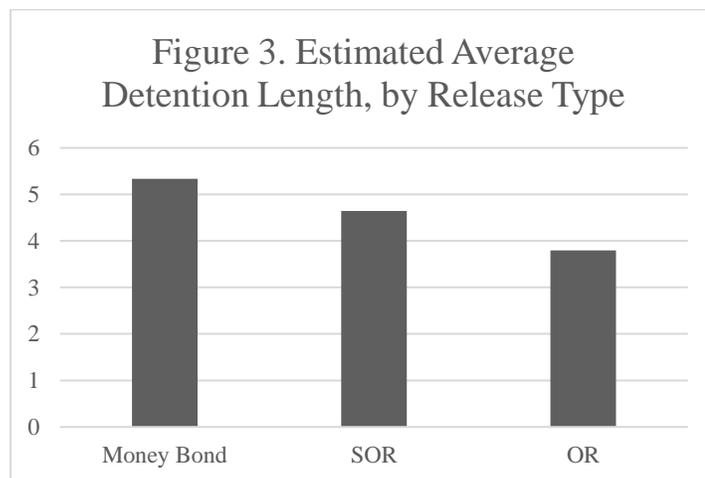
remained in custody until their case was resolved. The remainder were released via less common mechanisms (e.g., court order release, release to treatment programs, etc.). The remainder of our analyses focus on the population of individuals who were released prior to the disposition of their case on either money bond, SOR, or OR (unless otherwise indicated).

### *Comparison Across Release Types*

We first consider the odds of being released via the different mechanisms in a series of logistic regression models that account for a range of defendant background, current charge, and criminal history information. These models indicated that roughly 53% of released individuals were released via money bond, 26% via SOR, and 20% via OR. However, net of defendant and case factors, there were slight differences in the predicted probabilities of release via the various mechanisms across racial and ethnic groups such that expected rates of financial releases were lower among white defendants than their Black and Hispanic or Latino counterparts. Relatedly, a smaller share of Black and Hispanic or Latino individuals, relative to whites, were expected to be released SOR (see Figure 2).



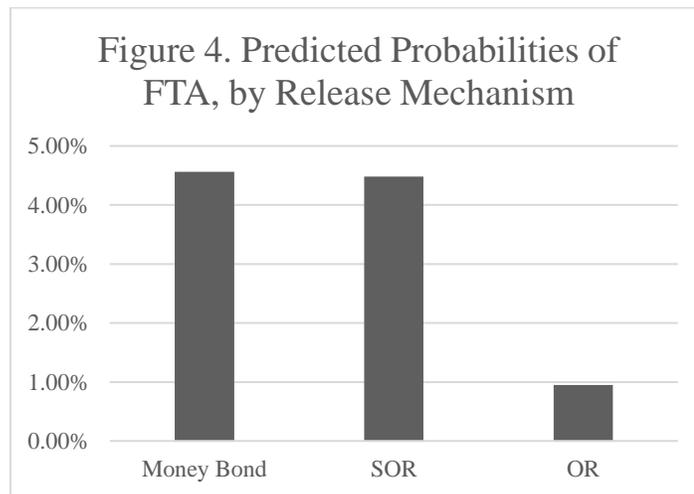
Next, we considered the average detention length by release mechanism to determine whether there were differences in the number of days spent in custody across the release groups (see Figure 3). Notably, these estimates are based on the subset of individuals who were released at some point prior to the disposition of their case, and thus underrepresent the overall average custody length across all bookings that occurred during this period. Notwithstanding, there were differences in the expected number of days spent in custody, such that those released on OR spent the fewest days detained (3.8 days), on average, followed by those released SOR (4.6 days). Relative to OR and SOR, those released via money bond spent the greatest number of days detained, on average (5.3 days).



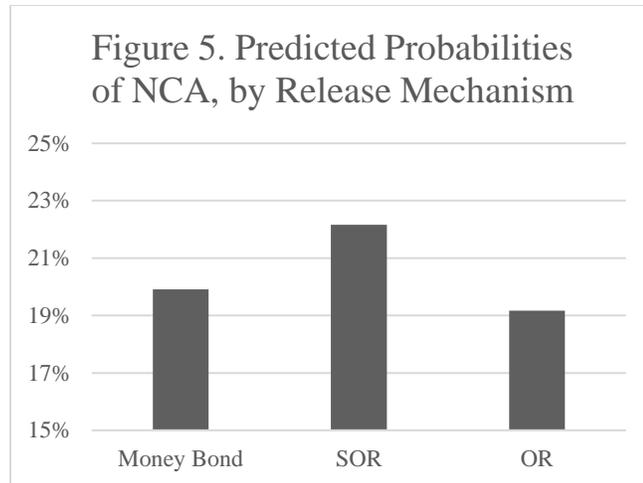
Overall rates of pretrial failure to appear during the study period were 4%, suggesting that the vast majority (96%) of individuals released pending the resolution of their case attended all required hearings. Despite these low levels of nonappearance in court, a remaining question was whether rates of FTA differed across the various release mechanisms.

Individuals who were released pretrial were tracked until their case was disposed or for 12 months, whichever came first. Using data from the Clerk of Courts, we determined whether individuals failed to appear for a scheduled court event. Results indicated that those released via

money bond and SOR exhibited similar probabilities of missed court dates (4.6% and 4.5%, respectively), while a smaller share of those released OR were expected to FTA (<1%) (see Figure 4). Furthermore, these patterns were substantively identical across racial and ethnic groups.

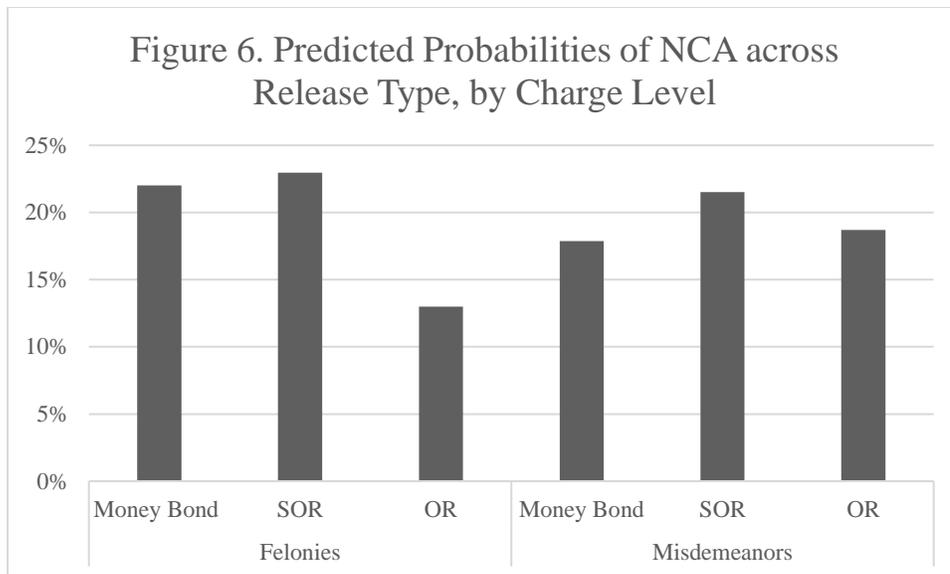


We also tracked defendants during the follow-up period (until case disposition or for 12 months) to determine whether they had been rebooked into the Palm Beach County Jail on new misdemeanor or felony charges. Overall rates of new criminal activity were relatively low. Across the study period, roughly one in five released defendants were rearrested during the period leading up to the resolution of their case. In contrast, four in five released defendants avoided further criminal justice contact during the pretrial period. Whether rates of new criminal activity were similar across the different release mechanisms, however, was unclear. In analyses controlling for relevant defendant background, current charge, and criminal history information, our results indicated that the odds of new criminal activity were similar among those released via money bond and OR; however, the odds of new criminal activity were slightly higher among those released via SOR.



More specifically, 19.9% of those released on money bond were expected to be arrested during the pretrial period as compared to 19.2% of those released OR and 22.2% of those released SOR (see Figure 5). These patterns were largely similar across racial and ethnic groups, such that expected rates of NCA within race/ethnic groups were similar for money bond and OR, and slightly higher for SOR releases. However, the odds of NCA were slightly higher among non-Hispanic Black individuals as compared to their white and Hispanic or Latino counterparts.

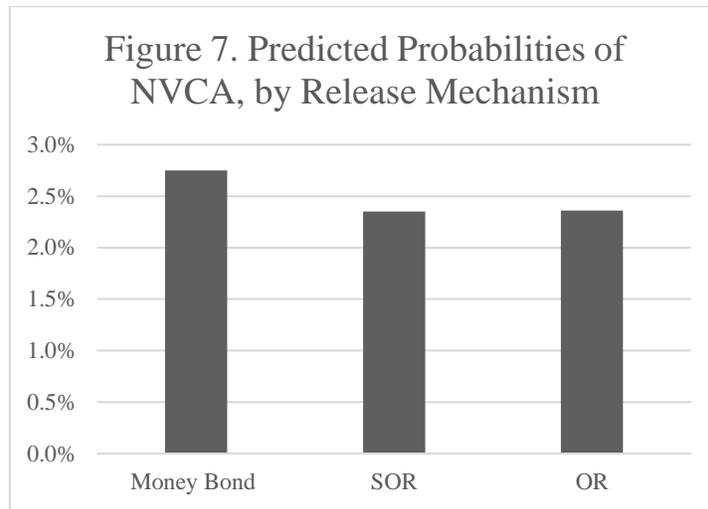
Subsequent analyses further examined the odds of NCA to understand the conditions under which those released via SOR were more likely to fail (see Figure 6). In models focused on the subset of defendants booked on felony charges, we found no differences in the odds of NCA between those released on money bond and SOR. Furthermore, those charged with felonies who were released OR were less likely to be rearrested than those released via money bond or SOR. In contrast, in analyses focused on the subset of individuals charged with misdemeanors, we found no difference in the odds of NCA between money bond and OR, while those released SOR exhibited higher odds of NCA. In other words, the elevated probability of NCA among those released SOR relative to money bond reported above was driven by individuals charged with misdemeanor, and not felony, crimes



In a final set of analyses, we examined whether defendants were rearrested on violent charges during the follow-up period. Descriptive analyses revealed that it is exceedingly rare for individuals to be rearrested on violent charges during the pretrial period, as fewer than 3% of released defendants were rebooked for a violent crime. Despite this low base rate, however, a looming question is whether the release mechanism is associated with the odds of new violent criminal activity. Accounting for defendant background, current charge, and criminal history information, we found that the expected rates of NCVA are substantively similar across release categories.

In particular, 2.7% of those released on money bond, 2.3% of those released on SOR, and 2.4% of those released on OR are rearrested for a violent crime during the pretrial release period. These patterns are largely similar across groups; among non-Hispanic white individuals 2.1%, 1.8%, and 1.8%; among non-Hispanic Black individuals 3.5%, 3.0%, and 3.0%; and among Hispanic or Latino individuals 2.3%, 2.0%, and 2.0% of those released via money bond, SOR, and OR, respectively, were rearrested for a violent crime. Despite similar patterns, the odds of

NCVA are slightly higher among non-Hispanic Black individuals relative to members of other racial and ethnic groups.



**Supplemental Analyses.** In supplemental analyses, we estimated a series of propensity score models to address potential concerns about the comparability of release types. These supplemental analyses matched individuals released via money bond to those released via SOR or OR on all of the factors included in the regression model. By matching individuals on the propensity score and comparing their pretrial outcomes, this approach helps approximate an experimental design in which assignment to the treatment is random. Findings from these analyses help shed additional light on observed differences from the multivariate models, and help to address concerns about unobserved heterogeneity. We began by generating propensity scores for each individual included in the sample using logistic regression. Next, individuals were matched using these empirically generated scores; that is, individuals who were assessed money bail were matched to individuals released SOR or OR (in separate models) with similar propensities of pretrial failure. The aim of this approach is to isolate the effect of money bail by comparing individuals who differ only in their mechanism of release. Tests of covariate balance revealed that the matched samples were comparable across the full vector of covariates. The

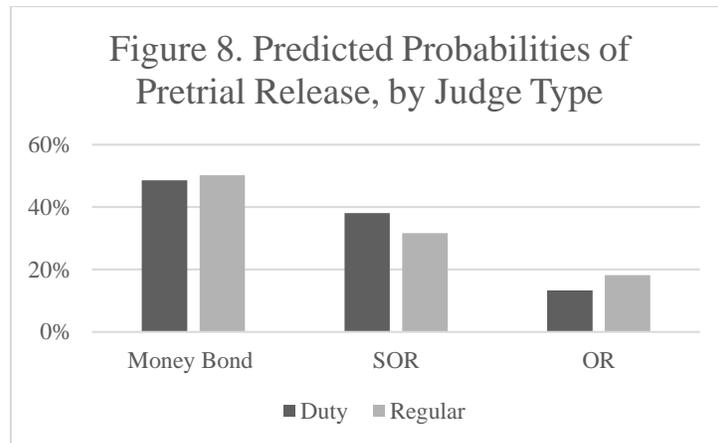
results of our propensity score analyses were substantively similar to many of the findings described above. More specifically, the matched sample comparisons revealed no significant differences in the odds of failure to appear or new violent criminal activity between those released on money bail and SOR. However, those released SOR exhibited higher odds of NCA than those released on money bail. Moreover, those released on OR were less likely to fail to appear, or engage in new criminal activity (including new violent criminal activity) than those released on money bail.

### *Comparison Across Judge Type*

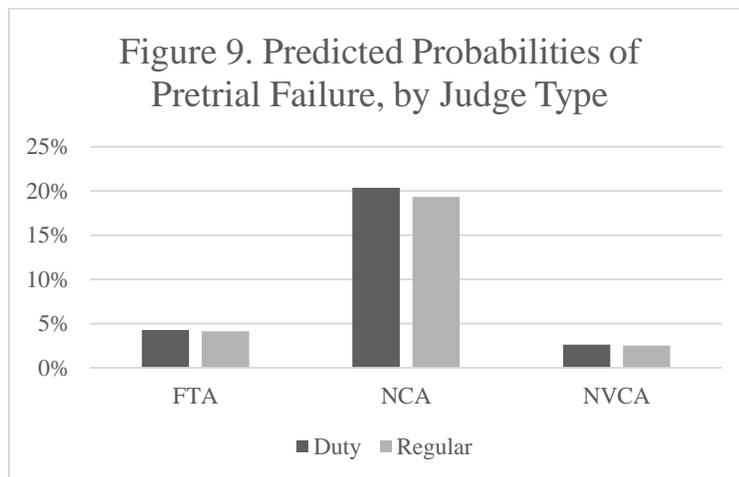
Analyses focused on judge type first considered the odds of pretrial release in a logistic regression model that controlled for whether money bond was assessed and the bond amount, in addition to a range of defendant background, current charge, and criminal history information. These models indicated that roughly 74% of individuals who appeared before duty judges were released pretrial as compared to roughly 67% of those who appeared before regular judges.

Focusing on the subset of individuals who were released pending the resolution of their case, we found that the odds of release on money bail was similar across duty (48.6%) and regular judges (50.2%), as roughly half of those released pretrial were released via money bail regardless of judge type and despite the observed differences in the likelihood of pretrial release across duty and regular judges. We did find, however, slight differences in the odds of SOR and OR release, such that duty judges released a larger share of individuals via SOR, and a smaller share of individuals via OR, than their regular judge counterparts. More specifically, whereas roughly two-fifths of those released following hearings with duty judges were released SOR, less than one-third of those released by regular judges were released SOR. In contrast, roughly one in

five individuals released by regular judges were released OR as compared to only 13% of those released by duty judges (see Figure 8).



Next, we considered the odds of pretrial failure across judge type. Although the findings presented above reflect slight differences in pretrial judicial decision-making, including both the likelihood of pretrial release and the release mechanism, we found no differences in the probabilities of pretrial failure by judge type. In particular, the odds of FTA were 4.3% and 4.2%, NCA were 20.4% and 19.3%, and NVCA were 2.6% and 2.5% for duty and regular judges, respectively (see Figure 9).



Given slight differences in the probability of pretrial release by judge type, we explored differences in the bail amounts set by regular and duty judges in a series of supplemental analyses. These analyses revealed that the greater likelihood of pretrial detention among those who appeared before regular judges is likely attributable to higher average bail amounts issued by regular judges, as compared to their duty peers. We further considered whether differences in bond amounts are restricted to certain charge levels (felonies versus misdemeanors) or offense types (e.g., violent, property, drug, public order, other). We generally found few differences between the bond amounts set by regular and duty judges. Where differences were observed, however, these were generally in the direction of higher amounts among regular as compared to duty judges. This was the case for violent, public order, and other felonies, in addition to violent misdemeanors. Duty judges set higher bail amounts, on average, for property and other misdemeanors; however, these differences were not significant.

## **Discussion**

The main objective of this project was to evaluate existing pretrial practices in Palm Beach County, FL, focusing on the effectiveness of money bond, and other mechanisms of pretrial release, at promoting pretrial compliance. Our findings demonstrated that most individuals released from the Palm Beach County Jail pending the resolution of their case neither engaged in any new criminal activity nor failed to appear in court. Still, in light of the small share of individuals who were rearrested and/or missed scheduled court appearances, it is important to understand the release conditions that best ensure public safety and court efficiency. Overall, our findings revealed that existing pretrial release mechanisms were similarly effective at ensuring public safety and court appearance. There were a couple of caveats. For example, the

findings revealed that individuals released OR are more likely to appear in court than those released on money bond or SOR. In addition, there was some evidence to suggest that money bond and OR may be more effective at promoting public safety than SOR; however, additional analyses revealed that the differences between money bond and SOR were limited to individuals charged with misdemeanor, and not felony, crimes.

Taken together, the findings from our analyses inform the following broad conclusions. First, money bond is the most commonly employed release mechanism in Palm Beach County and, relative to other non-financial mechanisms, contributes disproportionately to pretrial detention, including longer average detention lengths. Second, most individuals are released from custody at some point leading up to the resolution of their case and, moreover, the vast majority of these individuals neither engage in any new criminal activity nor fail to appear in court prior to their case disposition. Third, the shares of individuals who are either rearrested or fail to appear in court are largely similar across the different release mechanisms. Where slight differences are observable, these primarily reflect the greater efficacy of OR as compared to money bond or SOR. Notably, these patterns persisted in models that more fully accounted for differences between individuals released via these different mechanisms (i.e., propensity score models). Although OR may not be an appropriate release mechanism for certain defendants, either based on the nature of their current charges or the extent of their criminal histories, that there was no difference in the predicted probability of NCA between those released via money bail and SOR on felony charges suggests that SOR provides an effective alternative to financial mechanisms of release for those facing more serious charges. On the basis of these findings, we conclude that measures to increase the use of non-financial alternatives are likely to reduce rates

of pretrial detention and drive down detention lengths without producing any adverse consequences for public safety or court efficiency.

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