

Background

In 2019, New York State (NYS) passed bail reform legislation that, with limited exceptions, eliminated money bail and pretrial detention for almost all misdemeanors and all nonviolent felonies. The law took effect on January 1, 2020, and the state's average daily jail population decreased from 12,933 in 2019 to 8,371 in 2020. In New York City alone, the jail population dropped from 7,100 on November 1, 2019 to 5,500 on February 1, 2020, just prior to the outbreak of the COVID-19 pandemic.

Debates about bail reform are most often dominated by questions of public safety. [Past research](#) has partially addressed these concerns by showing that defendants released under a new bail law were no more likely to reoffend than those released before the change. But little is known about bail reform's effect on crime rates more generally and whether, in the absence of the threat of pretrial detention, a culture of lawlessness develops and encourages crime.

Research Question

Did bail reform increase the crime rate in New York State?

Study Strategy

To determine whether the NYS bail reform law affected crime rates, the study's authors used time-series analyses. These analyses compared the average of the monthly crime rates per 100,000 people from the period before the bail reform was enacted (January 2017 to January 2020) to the average of the monthly crime rates after the law took effect (February 2020 to September 2021).

The authors then created a "synthetic" NYS that comprised data from states that did not implement some type of bail reform. The researchers used monthly crime counts from the NYS Division of Criminal Justice Services and the FBI Uniform Crime Reporting Program for seven so-called "Part I" serious offenses—murder, rape, robbery, aggravated assault, burglary, larceny, and motor vehicle theft. If pre-/post-bail reform crime rates were significantly different between NYS and synthetic NYS, then the authors could attribute the post-bail reform difference directly to the new law.

Findings

The time-series analyses found that murder, larceny, and motor vehicle theft rates increased after the bail reform, while rates of rape, robbery, aggravated assault, and burglary were unchanged. The increases in the monthly rates of the three crimes post-reform were higher in NYS than the "synthetic" NYS, indicating that the bail reform law directly contributed to these increases. For example, this analysis showed that there were 0.02 more murders per 100,000 people in NYS than there were in the synthetic NYS.

"Previous studies either did not consider the effect of the pandemic or did not distinguish the effect of bail reform from the effect of the pandemic. This research shows that the rates of murder, larceny, and motor vehicle theft increased after the bail reform, but the contribution of bail reform to the crime rate increases was not significant."

– Wu & McDowall (2023)

The authors then applied this same synthetic analysis to other states. By doing so, the authors sought to determine if the increase found in NYS was significant compared to trends in other states and when controlling for other national events that may have affected crime rates (e.g., the COVID-19 pandemic). This analysis revealed that while bail reform did lead to a small increase in murder, larceny, and motor vehicle theft rates in NYS, the effect was not statistically significant compared to other states and with other national events taken into account.

Implications

This study showed that while the rates of murder, larceny, and motor vehicle theft increased after bail reform, the increases were not statistically significant. These findings shed important light on the concerns surrounding bail reform's effect on public safety and suggest that expanding pretrial release does undermine general deterrence against committing crime. Notably, [other studies](#) indicate that this finding is not unique to New York State.

"The findings indicate that the reduction of general deterrence by expanding pretrial release is not significant ... Lawmakers should address concerns about public safety using not only reoffending data but also information on how bail reform affects crime in general."

– Wu & McDowall (2023)

This study adds to a [robust body of research](#) demonstrating that pre-trial detention is not associated with reduced offending. Instead, risk of apprehension has the greatest deterrent impact. In other words, increasing the belief among the general population that they are more likely to be caught is a stronger deterrent than the belief that they will face more severe consequences. Because of this, resources used on pre-trial detention could be shifted to local police departments. The study's results do not address the impacts of bail reform on individual-level recidivism, highlighting the need for more research in this area.

Article Citation

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