

Background

For decades, many researchers have concluded that people who are detained in jail before trial often face **harsher case outcomes** than those released pretrial, including a greater likelihood of incarceration and longer sentences. Factors such as the perceived blameworthiness of the defendant and the perceived threat to communal safety, if released, can result in **more severe outcomes** for people who are held before their trial. These conclusions also rest on the premise that people who await trial in jail may have a tougher time preparing a defense and that the pressure of being away from work or family may lead them to accept plea deals, even if they are innocent. But some research evidence counters this conventional wisdom. Moreover, there has been little exploration of the size of the difference in case outcome severity between people held and released pretrial, and whether this magnitude varies across different outcomes (e.g., the likelihood of accepting a plea deal, having a case dismissed, being convicted).

Research Question

Are defendants who are detained pretrial subject to more severe case outcomes than defendants who are released pretrial?

Study Strategy

The author conducted a systematic review on research about the impact of pretrial detention on case outcomes. This review sifted through 13,745 potentially relevant studies to identify 57 that had been conducted on samples that were drawn after 1990 and that focused specifically on the United States. The researcher then ran a meta-analysis on the 143 independent results contained within these 57 studies to determine the average direct effect of pretrial detention on six case outcomes: conviction, guilty plea, dismissal, charge reduction, incarceration, and sentence length.

Each of the selected studies controlled for offense type/severity and criminal history, acknowledging that these factors shape the likelihood of pretrial detention and the severity of the sentence. By including these controls, the author ensured that the impact of pretrial detention on case outcome severity found in this analysis was not skewed by the potential influence of offense type/severity and criminal history.

Findings

Categorizing conviction, guilty plea, no dismissal, no/less charge reduction, incarceration, and longer sentence length as the more severe case outcomes, the author found that pretrial detention is significantly associated with more severe outcomes. Charge reduction provided the one exception to this finding, indicating that people held pretrial are not significantly more or less likely to see their charges reduced compared to those who were released before their trial.

"Across the included studies, detained defendants were much more likely to be incarcerated than released defendants. They also were more likely to be convicted and plead guilty, less likely to have their cases dismissed, and received longer custodial sentences."

– St. Louis (2023)

The magnitude of the average effect of pretrial detention on the six case outcomes varied. On average, compared to people released pending trial, those who were detained saw their odds of:

- conviction increase by 102%
- pleading guilty increase by 104%
- being sentenced to incarceration increase by 236%
- having their case dismissed decrease by 39%,
- having a longer sentence length increase by 29%, and
- having their charges reduced decrease by 28% (not statistically significant).

Implications

This study offers a more comprehensive look at the nature of the relationship between pretrial detention and case outcome severity. As the United States is in its **third wave of bail reform**, the findings of this study can provide guidance for current and future policy and practice changes.

"By lessening the number of people held in pretrial detention, the approximately \$13.6 billion annual costs of pretrial could potentially be invested into other evidence-based programs."

– St. Louis (2023)

Most notably, there is often concern among stakeholders about the risk to public safety if significant reductions are made to the population of people detained before their trial. While this is a valid priority, this study's meta-analysis only included studies that controlled for offense type, offense severity, and criminal history. More research is needed to determine how other factors might influence the relationship between pretrial detention and certain case outcomes, but this study provides a closer analysis of the direct relationship between these two variables. Given that this study suggests that people detained pretrial face more severe case outcomes (especially incarceration) than those released pretrial, court actors should be particularly mindful of these impacts when making pretrial detention decisions.

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