

THE IMPACT OF POVERTY ON THE PRETRIAL PROCESS

by

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Dedication

This dissertation is dedicated to my husband, Nicholas Andrew Kimbrell.

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Abstract

THE IMPACT OF POVERTY ON THE PRETRIAL PROCESS

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Over the past several years, criminal justice reform efforts have emphasized the pretrial process, focusing in particular on the relationship between poverty and bail decisions. There is a growing acknowledgment that bail decisions disproportionately affect the poor, notably through the use of money bail. As a result, many states and jurisdictions are adopting measures to modify their pretrial practices to address issues related to inequality, fairness, and overall effectiveness. Despite the enthusiasm for reform, research focusing on the impact of poverty on the pretrial process remains limited. This dissertation endeavored to better understand this relationship through a mixed methods design, resulting in three bail studies.

The first study, based on self-report surveys, included an evaluation of experiences and perceptions of incarcerated pretrial defendants regarding the bail process, in particular focusing on the use of money for release. Potential collateral consequences and concepts of procedural justice were also explored. Self-report data were collected through surveys completed by pretrial incarcerated defendants held on money bail (220 individuals) within four jails across three states. The second study provided a complement to the first through the use of qualitative, semi-structured interviews. Similar concepts were explored, including experiences and perceptions of money bail, collateral consequences of pretrial incarceration, and perceptions of procedural justice. A total of 30 interviews were conducted with pretrial

incarcerated defendants offered money bail within these same four jail facilities. In both studies, we found that financial reasons were the main reason pretrial incarcerated defendants did not pay their money bail. Additional reasons were also noted, which were explored in these studies. Study participants detailed a number of potential collateral consequences involving employment, housing, and issues related to children as a result of their pretrial incarceration. Moreover, perceptions of procedural justice helped expand our understanding of what fairness in the pretrial stage looks like.

The third study included an analysis of administrative data (jail and pretrial services data) from a single jurisdiction over the course of one year. A total of 2,332 unique incarcerated defendants were included in this study. Multiple regression analysis was used to measure relationships between important pretrial decisions and outcomes and several indicators of poverty. We found a relationship between poverty and the final bail outcome of whether someone is given a money bail or no bail pretrial, whether someone pays or does not pay their money bail, the money bail amount, and the length of time incarcerated pretrial. We did not find a relationship between poverty and the initial court hearing decision. In addition, the legal factor of risk level, based on a pretrial risk assessment instrument, influenced each of our models. Ultimately, these studies collectively showed the impact poverty plays on the pretrial process in a number of ways. Implications of the results for each study are discussed.

Chapter 1: Introduction

Within the past several years, a number of harrowing stories have captivated the American public's attention and put a spotlight on the pretrial stage of the criminal justice system and the need for change. One notable story was that of Kalief Browder. Browder was 16 years old in 2010 when he was detained on Rikers Island in New York for allegedly stealing a backpack. While initially given a bail of \$3,000, an amount his family could not afford, his bail was eventually denied due to his arrest being a violation of his probation. Browder spent three years in pretrial detention, nearly two of which were spent in solitary confinement, only to have his case eventually dismissed. Two years after his release from jail, he took his own life (Gonnerman, 2014). Another widely reported tragedy occurred in 2015, when Sandra Bland was arrested in Texas for failing to signal a lane change. She committed suicide three days later while held in Waller County Jail pretrial (Chammah, 2016).

Stories such as Browder's and Bland's are notable due to the devastating consequences of their pretrial incarceration. Their stories, however, are the most disturbing among a large number of more common and unpublicized encounters that have triggered calls for changes to the pretrial and bail system. Donya Pierce, a homeless mother of two, was arrested in Missouri in 2015 when a police officer saw one of her headlights was out, and was charged with a number of traffic related issues. She was required to pay \$800 in cash for her release (later reduced to \$650). If she could not afford to pay, she would be released three days later for free. In this three day interim, Pierce would miss work, a significant consequence given her financial status, and be away from her children (Reilly & Stewart, 2015). Her arrest resulted in a class action lawsuit filed against Velda City, with the plaintiff noting that the Supreme Court had emphasized the fundamental principle that "no person can be kept in jail solely because of her poverty" (*Pierce v. City of Velda City*, 2015). This eventually led to the abolishment of secured cash bail for cases in Velda County municipal

court (Hahn, 2015). These personal stories have sparked conversations about the fairness of pretrial practices by shedding light on the short- and long-term, and in some cases dire, consequences of pretrial incarceration.

General concerns about mass incarceration in America have also led to increased scrutiny of the pretrial process and bail practices. Between 2000 and 2014, the clear majority of growth (95 percent) in jails was attributed to the increase in the pretrial population (Minton & Zeng, 2015). In addition, there is a growing belief that bail decisions disproportionately affect the poor, as seen through Pierce’s case, because detained defendants are often unable to pay the money bail set for them (Neal, 2012; Dewan, 2015; Santo, 2016). As a result, many poor defendants must await their trial or resolution of their case in jail, and suffer a number of disadvantages (Subramanian, Delaney, Roberts, Fishman, & McGarry, 2015). This has resulted in several class action lawsuits, as recently seen in Harris County (Texas), as well as bail reform efforts across the country, as seen in California through the elimination of money bail (Pretrial Justice Institute, 2018). These lawsuits and reforms have challenged the utility of the money bail system and have encouraged the abolition of requiring money for pretrial release. In light of these recent developments and the increased attention on pretrial reform, it is critical to better understand the role poverty plays in pretrial detention.

Bail refers to the process of releasing a defendant from jail, or any other governmental custody (Schnacke, 2014a). Traditionally, three main options are available in the bail decision. A judge or magistrate may deny bail (i.e. detain the defendant pretrial), require the defendant to pay a secured money bond to obtain their release, or release a defendant under non-financial conditions (Neal, 2012). With roughly 10.6 million annual jail admissions, the bail decision is a common and important one (Zeng, 2018). On a given day, there are nearly 740,000 people confined in jail throughout the country. Of those, approximately 65 percent remain unconvicted (Zeng, 2018). In other words, the majority of the jail population includes pretrial defendants. In addition, the reliance of money for pretrial release has increased substantially over the past two decades. Based on the latest survey of felony defendants in 75 of the largest counties in America, 61 percent of felony defendants were

released pretrial under financial conditions (i.e. money bail) in 2009 compared to 37 percent in 1990 (Reaves, 2013).

The bail decision is also important because it has lasting consequences on later stages of the criminal justice process. Research shows that the bail decision impacts other stages of the criminal justice process, including conviction and guilty pleas, sentencing, and corrections (M. Sacks & Ackerman, 2012, 2014; Oleson, Lowenkamp, Cadigan, VanNostrand, & Wooldredge, 2016; Didwania, 2018; Dobbie, Goldin, & Yang, 2018). The potential consequences of the bail decision emphasize the importance of researching the pretrial stage of the criminal justice process, as well as understanding the role poverty may play in pretrial detention.

The proposed study therefore aims to evaluate the relationship between poverty and the pretrial process. Toward this end, important pretrial decisions and outcomes will be evaluated for defendants that remain incarcerated pretrial. In addition, perceptions and experiences of defendants held pretrial with a money bail will be explored. This dissertation research will include both defendants denied bail and those who are offered a money bail but do not pay for their release. Our research focuses on these two groups, which make up the jail population of pretrial defendants.

This dissertation has four overall objectives:

1. To examine whether a relationship exists between poverty and important bail setting decisions (e.g. the initial court decision of bail or no bail) and outcomes (e.g. money bail outcome, or who pays and who doesn't pay)
2. For those with a money bail, to better understand the reasons and motivations behind why these incarcerated defendants do not pay their money bail, and whether poverty plays a role
3. For those with a money bail, to better understand the consequences these individuals face as a result of their pretrial incarceration

4. For those with a money bail, to better understand their perceptions of fairness surrounding the pretrial stage

To accomplish these objectives, three bail studies were conducted using both qualitative and quantitative methods. Study 1 consisted of a quantitative analysis of 220 surveys conducted in four jail facilities located in three different states with incarcerated pretrial defendants with money bail. Study 2 included semi-structured, qualitative interviews conducted with 30 pretrial defendants also held with money bail within these same four jail facilities. Finally, Study 3 encompassed a quantitative analysis of administrative pretrial data over a single year period from two data sources (jail data and pretrial data) from a single jurisdiction. One jail was analyzed in each of the three studies, and was located in a large jurisdiction from a Mid-Atlantic state. Each study will be presented separately, and will include a specific methodology, analysis, results, and discussion section. A general discussion will conclude this dissertation.

One of the founding ideals of our country is the belief that there should be equality under the law (Schnacke, 2014a). If pretrial defendants are in fact denied their freedom because of their poverty, this deprivation of liberty demands investigation. This dissertation research aimed to address these issues of inequality and freedom as they relate to poverty with the goal of improving future pretrial policies and practices so that they may become fairer, more just, and more effective.

Chapter 2: Literature Review

2.1 The Pretrial Process—An Overview

2.1.1 Goals, actors, and decisions

The goals of the pretrial process are to maximize public safety, court appearances, and release from custody (Bechtel, Clark, Jones, & Levin, 2012). To achieve these goals, the bail decision requires a balance between safeguarding personal liberties and the state's interest in preventing future crime, as well as ensuring an efficient trial. Following arrest, a bail decision is made at an initial appearance. The defendant is brought before a judicial officer (e.g. judge or magistrate), probable cause is determined, and the defendant is informed of their charge(s) and the bail decision (Bureau of Justice Statistics, n.d.-a).

The judicial officer is arguably the most important actor in the bail decision, as they have the formal authority to set bail, and are ultimately responsible for making the final decision. That is not to say that other actors are not important in this decision process. Walker (1993) notes that the police and prosecutor can influence the bail decision. Police, for example, provide information that informs the magistrate or judge's decision. Pretrial Service Agencies can also have an important role in the process. These agencies often collect information about the defendant, present this information to the judge, and may even make their own pretrial recommendation (United States Courts, n.d.). Prosecutors often make their own recommendations on pretrial decisions as well. As a result of the many potential actors involved in the bail process, Walker argues that the bail setting stage is really a group decision. Ultimately, however, the magistrate or judge has the final say and must make a number of decisions in determining bail.

Goldkamp and Gottfredson (1979) break down the bail decision process into three steps. First, the judge or judicial officer must decide whether to release an individual on their own recognizance (OR), also referred to as personal recognizance. Individuals offered OR are generally charged with low-level crimes, are not deemed by the judge to be serious threats to the community or likely to miss their court hearings, and are not required to pay money up front to obtain their release. The judge may give these individuals an unsecured bond, whereby the defendant agrees to pay a certain amount if they should fail to return to court. The second step, according to (Goldkamp & Gottfredson, 1979), involves deciding whether to grant bail or to deny bail (i.e. preventive detention) for those not offered OR. The third step is then determining the bail amount for those offered one.

There are generally several possible bond types the judge can choose between for those offered a bail. For those offered a bail but not released on OR, the judge may require a secured bond, whereby the defendant is required to pay the court a certain amount of money determined by the judge or magistrate in order to be released. A defendant may pay the court directly and get the entirety of their money back after returning to all agreed upon court appearances, or they can use a bail bondsmen. Bail bondsmen require the individual defendant, their family, or other acquaintance to pay a non-refundable percentage of the set bond amount (generally 10 percent), and then take responsibility for ensuring that the defendant return to court (Neal, 2012).

Regardless of how the individual is released (unsecured bond, secured bond, property bond, cash bond, etc.), they may be required to meet additional requirements when released. These may include reporting to a pretrial services agency, complying with drug testing, house arrest, or wearing an ankle monitor. If bail is denied or an individual cannot pay or chooses not to pay their bond, they will remain incarcerated in jail pretrial until their case is resolved (e.g. charges dropped, guilty plea, trial, etc.), or their bail status changes following additional bond reduction or other court hearings (e.g. no bail changed to a secured bond, unsecured bond granted, money amount reduced, etc.).

As the terms jail and prison are often mistakenly used interchangeably, to understand the pretrial population it is important to briefly clarify the difference. A jail is defined as a locally (county or municipal) run facility that primarily holds pretrial individuals that are arrested, although not yet convicted, prior to trial. For the remaining individuals in jails, they are often serving sentences of generally less than one year (Subramanian et al., 2015). Prisons, on the other hand, are long-term facilities, usually run by a state or the federal government, that generally hold individuals sentenced for felonies and for over one year (Bureau of Justice Statistics, n.d.-b). When it comes to jails, the image of a revolving door is especially appropriate—with high turnovers due to short sentences and large numbers of admissions due to the pretrial population. Jail can be a way station before release, or as Travis, Western, and Redburn (2014) note, “the gateway to imprisonment” (p. 40).

2.1.2 Legal framework

A variety of legal sources inform bail practices, and implicate fundamental moral and legal principles of fairness and equality. The practice of bail reaches far back into history, but the constitutional underpinnings begin with the Eighth Amendment, which prohibits excessive bail, although it does not explicitly guarantee a right to bail (Schnacke, 2014a). Current laws in most states institute a presumption of release on the least restrictive conditions necessary to ensure public safety and court appearance, and establish non-financial release options as the least restrictive with secured bond being more restrictive (Bechtel et al., 2012).

The Fifth and Fourteenth Amendments are also important to the implementation of bail, setting forth the elements of due process and the protection of individual liberty and property from federal and state laws and actions. In addition, the Equal Protection Clause of the Fourteenth Amendment ensures that laws may not be unfairly applied to groups and individuals (Schnacke, 2014a). Another important principle is the presumption of innocence, as emphasized in *Coffin v. United States* (1985), which articulated the evidentiary standard for criminal conviction as “beyond a reasonable doubt” (Schnacke, 2014a). This principle applies to bail in highlighting the importance of not inflicting punishment before

proof of guilt. Taken together, these legal sources have direct bearing on the pretrial population. Additionally, while not exhaustive, these legal sources and principles underscore important fundamental concepts when examining the impact of poverty on the bail decision, in particular as they relate to the concepts of fairness and equality.

Although variations may exist from state to state, or even from jurisdiction to jurisdiction, a judge generally takes into consideration both legal and extralegal factors when setting bail in accordance with the governing law. Using federal law as a model, U.S. Code, Title 18 Chapter 207 (2018) sets forth the judicial proceedings for release and detention, with section §3142(g) defining the factors to be considered in determining this decision. These include: 1) the nature and circumstances of the offense, 2) weight of the evidence, 3) history and characteristics of the person, and 4) nature and seriousness of the danger to any person or the community posed by release. Thus, judges often rely on both legal factors (e.g. nature and seriousness of the current crime, criminal history, and prior failures to appear) and extralegal factors (e.g. employment status, community ties, marital status, and child custody) when making their decision (Walker, 1993).

2.1.3 A focus on money bail

Despite these legal guidelines, judges have considerable discretion in making their decision, in particular when determining the monetary amount of bail. Walker (1993) notes that in regards to deciding money bail, the judge has “nearly unlimited discretion as to the dollar amount” (p. 57). There is considerable ambiguity in terms of how the exact dollar amount is determined by the judicial officer making this decision. Majority interpretation of the case law indicates that judicial officers base their decision on a “reasonable assurance” standard. That is, what amount will reasonably assure the attendance of the accused in court. Reasonable assurance, however, is both subjective and potentially arbitrary. In prioritizing reasonable assurance over one’s ability to pay, judicial officials not only set excessive bails, but also base their decisions on subjective and arbitrary standards. As

Schnacke (2014a) states, “Too often judges choose an amount of money, declare it to be ‘reasonable assurance’ without rationale, and then move to the next case” (pg. 37).

Clarke (1988) notes that the theory behind money bail is the belief that requiring money to secure release serves as a deterrent against failing to appear to future court hearings or committing crime pretrial. Ultimately, the goal of the money bail system is to incentivize individuals to obey the law and return to court to resolve their case, or else forfeit the entire bail amount paid to the court. Jones (2013), however, found that unsecured bonds (not requiring money paid up front) were as effective at achieving public safety and court appearance as secured bonds based on an analysis of 1,900 defendants in Colorado. Similarly, the Maryland Office of the Public Defender (2016) also found that unsecured bonds were as effective as secured bonds at ensuring defendants return to court.

When a judicial officer requires a financial condition or secured money bond from a defendant, they must pay the court directly the entire amount or use a bail bondsmen to obtain their release. Four out of five financial releases in 2009 used private surety bonds, or bail bondsmen, making this the most common method of pretrial release (Reaves, 2013). Bondsmen require a nonrefundable fee upfront, generally ten percent of the total amount (e.g. \$100 for a \$1,000 bond) (Neal, 2012). The incentive for the defendant to return to court in many ways is therefore transferred to the bondsmen, who must ensure the defendant returns to court or else pay the entire bond amount to the court. However, not every state requires that bail be forfeited should a defendant commit a new crime pretrial (Pirius, 2018). In these situations, the bondsmen are therefore not incentivized to help prevent pretrial crime. In addition, many bail bondsmen agencies are run by large global insurance companies, thereby minimizing the financial risk to the bond agency should the defendant not return to court (White, 2017). Ultimately, regardless of the outcome of the case, even if charges are eventually dropped, the individual will not receive any of the money paid to the bondsmen back, with the bond agency arguably reaping the financial benefit of bailing the defendant out at little cost. Goldkamp, Gottfredson, Jones, and Weiland (1995) note, “the reliance on cash bail guarantees that, for a price, freedom can be purchased” (pg. xi).

As the reliance on money for release has increased substantially over the past two decades, so too has the reliance on bondsmen for pretrial release. It is also worth noting that money bail is almost universally proscribed. In fact, commercial bail bonds are dominate in only two countries: the United States and the Philippines (Liptak, 2008).

One solution to curb money bail setting discretion is a bail schedule, which establishes a specific amount for certain offenses and charges (e.g. involuntary manslaughter charge results in a bail of \$25,000). While the logic behind bail schedules is straightforward and appears fair, in practice these schedules lead to discriminatory practices. Several lawsuits have challenged the constitutionality of schedules, as was seen in *Jones v. The City of Clanton* (2015), *Walker v. City of Calhoun* (2018), and *O'Donnell v. Harris County* (2018). In the Harris County lawsuit, which highlighted the impact the bond schedule was having on misdemeanor, indigent defendants in particular, Chief Judge Rosenthal of the United States District Court for the Southern District of Texas found that the Harris County bail system was unconstitutional in violation of the Equal Protection Clause (Rosenberg, 2017). The argument behind schedules being unconstitutional is that two individuals with the same charge may not be similarly situated financially, and a bail schedule does not allow for an individualized assessment of the defendant, their unique circumstances, and ability to pay. While many jurisdictions still use bail schedules, which may continue to be challenged in court, many other jurisdictions determine money bail amounts on an ad hoc basis, often arbitrarily and ambiguously, and based in part on the prosecutor's recommendation.

2.2 The Impact of Pretrial Decisions

2.2.1 Legal consequences

Research has shown that the pretrial bail decision impacts other stages of the criminal justice process, and thus has far reaching consequences. Foote, Markle, and Woolley's (1954) seminal research on bail practices in Philadelphia found that those who did not pay their money bail were more likely to be convicted and receive higher sentences compared to similar

defendants who were able to pay for their release. More than half a century later, research has produced similar findings, with Gupta, Hansman, and Frenchman (2016) also finding that the assignment of money bail alone in Philadelphia leads to an increase in convictions, an increase in guilty pleas, and an increase in recidivism, unrelated to other case or defendant characteristics. Overall, pretrial detention has been found to lead to several adverse case outcomes. These include an increase in the likelihood of being convicted, accepting plea deals and pleading faster, an increase in payment of non-bail court fees, an increase in being sentenced to incarceration, and length of sentences for cases involving a sentence of incarceration, even when controlling for a number of case and defendant characteristics (Dobbie et al., 2018; Leslie & Pope, 2017; Stevenson, 2018; M. Sacks & Ackerman, 2012, 2014; Didwania, 2018; Oleson et al., 2016). Lowenkamp, VanNostrand, and Holsinger (2013b) also found that low-risk defendants detained pretrial were 5.4 times more likely to be convicted and sentenced to jail when compared to similarly situated released defendants.

In addition, the impact of bail decisions appears to fall disproportionately on racial minorities, with studies indicating that Black and Hispanic defendants are more likely to have to pay a financial bail requirement, less likely to post their money bail compared to White defendants, and more likely to be detained pretrial (M. Sacks, Sainato, & Ackerman, 2015; Schlesinger, 2005; Demuth, 2003; Demuth & Steffensmeier, 2004). Since a link between race and wealth has been clearly established, the current bail system may be exacerbating both racial and economic disparities (Kochhar & Fry, 2014). If a relationship exists between poverty and bail decisions and outcomes, it is feasible that poor, minority defendants may be significantly disadvantaged throughout the entire criminal justice system.

In evaluating the impact of pretrial detention, Lowenkamp, VanNostrand, and Holsinger (2013a) also found that detaining low and moderate risk offenders even for short periods of time (two to three days) increased new criminal activity both during the pretrial period and after case disposition. These detained defendants were 40 percent more likely to commit new crimes pretrial than equivalent defendants held for less than 24 hours. In addition, through an analysis of hundreds of thousands of misdemeanor cases in Harris County, Texas, Heaton,

Mayson, and Stevenson (2017) found that detained defendants were more likely to commit future crime compared to similarly situated defendants. These findings beg the question of whether pretrial practices are in fact successfully accomplishing the important bail goal of ensuring community safety.

2.2.2 Collateral consequences

The bail decision may also lead to collateral consequences outside of the criminal justice system. Chemerinsky and Levenson (2013) note several reasons why defendants want bail. These include the reality that jail is generally not a pleasant place to be. Subramanian et al. (2015) note the potential for worsening physical and mental health of incarcerated defendants. In addition, being incarcerated makes it more difficult for defendants to prepare for trial and meet with their lawyer. They are also at a potential disadvantage once in the courtroom, as they must appear in court in a jail uniform.

Perhaps the most severe potential collateral consequences include the loss of employment, loss of housing, loss of child custody, and other familial issues (Chemerinsky & Levenson, 2013; Holsinger, 2016). In terms of employment, Dobbie et al. (2018) found that pretrial detention reduces employment as well as the receipt of employment- and tax-related government benefits, with initial pretrial release increasing both for released defendants. Defendants interviewed by the Colorado Criminal Defense Institute (2015) reiterated a number of these consequences, notably that pretrial detention led to the loss of jobs, homes, and personal belongings, a disruption to families, and a reliance on public assistance following release from jail.

In evaluating the costs of incarceration, many have highlighted the impact that incarceration has on families and communities. Families often bear the financial burden of incarceration, with these collateral consequences falling mostly on women, low-income families, and communities of color (Page, Piehowski, & Soss, 2019; deVuono powell, Schweidler, Walters, & Zohrabi, 2015). A study conducted in New Orleans found that poor, low-income families are often forced to “scrape together bail from money that they need to live on,” and are often

faced with the difficult decision of choosing between paying for their rent and/or utilities or paying for a loved one's bail (Henrichson et al., 2017, p. 1). Financial responsibilities that may fall on families range from a number of costs, including legal expenses, court fines and fees, money for commissary, and phone and visitation charges. These financial costs put additional strains on families, and may force them into, or further into, debt. Families may also take a financial hit if they rely on the income of an incarcerated individual. Additional unseen or hidden costs of incarceration are far reaching, including uprooting children from their homes, as well as the emotional strain resulting from the absence of a family member. Ultimately, these collateral consequences emphasize the importance of decisions made during the pretrial process, as these decisions have potentially reverberating ramifications beyond the defendant.

Finally, an additional collateral consequence worth noting is the financial costs of pretrial incarceration for taxpayers. The Pretrial Justice Institute (2017a) notes that it costs taxpayers approximately \$38 million per day, or \$14 billion over the course of a year, to jail individuals awaiting their trial.

2.3 Poverty and the Pretrial Process

The characterization of poverty or being poor is in many ways an amorphous one. At a general level, poverty is defined as a state of deprivation, with poor individuals lacking socially acceptable amounts of money or material possessions (Meriam-Webster, 2019). The United States Census Bureau provides a more specific measure of poverty, as they are responsible for documenting annual poverty estimates. In doing so, they measure poverty through an evaluation of money income before taxes, not including capital gains or noncash benefits (e.g. public housing, Medicaid, food stamps) (United States Census Bureau, 2016). Poverty thresholds are then established based on the cost of a minimum food diet multiplied by three to account for other family expenses, a measure developed by statistician Mollie Orhansky in the mid 1960s (United States Census Bureau, 2017). In terms of people's beliefs or characterizations about the causes of poverty, three explanations are often

referenced, including individualistic (e.g. role of individual, such as laziness, substance use, etc.), structural (e.g. economic and social factors, such as low wages, inadequate schools, job scarcity, etc.), and fatalistic (e.g. bad luck, sickness, etc.) (Feather, 1974). Americans tend to favor the individualistic explanation of poverty (Kluegel & Smith, 1986).

Inquiries into the role of poverty within the criminal justice system and jails more generally are not unfamiliar. For example, Goldfarb (1975) contends, “American jails operate primarily as catchall asylums for poor people” (pg. 29). Echoing this sentiment, Irwin (2013) argues that “jail was invented, and continues to be operated, in order to manage society’s rabble” (pg. 2). “Rabble” are poor, under educated, unemployed, and of minority status; they are “disorganized” and “disorderly.”

In addition, evaluations into the role of poverty within the pretrial process more specifically are not new. When providing testimony to the Senate Judiciary Committee on Bail Legislation in 1964, Attorney General Robert F. Kennedy noted, “The rich man and the poor man do not receive equal justice in our courts. And in no area is this more evident than in the matter of bail” (Department of Justice, 1964, p.1). This echoed a similar sentiment stated by de Tocqueville (1835/2003) well over a century earlier, when he stated,

[Bail] is hostile to the poor man, and favorable only to the rich. The poor man has not always a security to produce . . . and if he is obliged to wait for justice in prison, he is speedily reduced to distress (p.63).

Despite the considerable passage of time between these two statements, the impact of bail decisions on the poor continues to the present, and remains a major concern for modern day pretrial reformers. In addition, a clear increase in requiring money for pretrial release was noted over the past several decades, up from 37 percent in 1990 to 61 percent in 2009 for felony defendants with financial conditions (Reaves, 2013). This increased reliance on money for pretrial release, thereby potentially keeping increasing numbers of poor individuals incarcerated pretrial, has led many to argue that the criminalization of poverty is occurring through the use of money bail (Edelman, 2017).

Several important research findings have highlighted the impact that poverty plays in the pretrial process. A study analyzing the New Jersey jail population found that 39 percent of inmates eligible to post bail were held in custody because of their inability to meet the terms of their bail, with 12 percent of the entire jail population unable to meet amounts of \$2,500 or less (VanNostrand, 2013). In addition, a report conducted by Human Rights Watch found in 2008 that 87 percent of New York City pretrial defendants arrested on non-felony charges or low-level offenses with bails set at \$1,000 or less were unable to pay this amount at their arraignment (Fellner, 2010). Similarly, a 2013 review of New York City jails showed that more than half of inmates held pretrial did not pay their bails of \$2,500 or less, with 30 percent of non-felony defendants held on a money bail of \$500 or less (Subramanian et al., 2015). An analysis by the Maryland Office of the Public Defender (2016) of 700,000 Maryland district court criminal cases filed between 2011 and 2015 concluded that the state's reliance on money for release was routinely incarcerating poor people, with 17,434 defendants (out of 46,597 detained on bail for more than five days) detained pretrial on bail amounts of less than \$5,000. A study conducted by the Vera Institute in New Orleans also found that low-income, poor residents and their families face the financial burden of bail decisions, which they argue do not take into consideration a person's ability to pay (Henrichson et al., 2017).

In an analysis evaluating financially fragile households, Lusardi, Schneider, and Tufano (2011) examined the financial constraints facing many Americans. They examined survey responses from 2,148 U.S. participants on their ability to come up with \$2,000 in 30 days, and found that nearly half of respondents were either certain they could not come up with this amount, or believed they probably could not. They found that financial fragility was more severe for low-income households, although a considerable portion of 'seemingly' middle-class Americans were also at risk. More recently, a report on the economic well-being of U.S. households in 2017 found that 40 percent of adults would not be able to come up with an unexpected expense of \$400 (Federal Reserve, 2018). These findings highlight the potential difficulties that may arise for low-income families when coming up with money, even conceivably small amounts, to pay for pretrial release.

Homelessness is another issue that criminal justice decision-makers and jail administrators must contend with. In 2002, 14 percent of jail inmates were homeless, living in a shelter, or living on the street the year before their jail admission, compared to about 2 percent of the U.S. population between 2008 and 2009 (the closest data to 2002 on homelessness in America) (James, 2004; U.S. Department of Housing and Urban Development, 2010). In addition, Rabuy and Kopf (2016) analyzed the pre-incarceration incomes of defendants in local jails that did not pay their bail. Through an evaluation of the Bureau of Justice Statistics survey results from inmates in local jails in 2002, they found that this population was significantly poorer than their non-incarcerated counterparts, with women's incomes falling below the poverty threshold as established by the U.S. Census Bureau. Findings such as these led Goldkamp et al. (1995) to note that, "judges and magistrates still use dollars to divide defendants into two classes of accused – the confined and the released" (pg. xi). Some critics have argued that bail may therefore be purposefully set at unaffordable levels with the goal of keeping certain defendants incarcerated; this is both discretionary and discriminatory (Walker, 1993; Gottfredson & Gottfredson, 1988).

However, organizations supporting the money bail industry (e.g. bail bondsman) and the use of money for pretrial release have warned against generalizing assumptions that all incarcerated pretrial defendants held on money bail are simply there because they cannot afford to pay (John Jay College of Criminal Justice, 2015). They argue that there are other barriers keeping these defendants in jail pretrial in addition to financial constraints, including non-monetary reasons, administrative issues, and/or other legal obstacles or complications. Furthermore, some defenders of the money bail system have argued that misdemeanor defendants held on low bonds in fact "want" to be in jail, for example when the weather is cold, as was argued by the government in the Harris County lawsuit challenging their money bail system (Hardy, 2017). Some advocates of the money bail system therefore encourage conducting an analysis of the jail population to better understand the reasons why individuals do not pay their bail and therefore remain incarcerated pretrial.

While additional research as suggested by those supporting the bail industry is warranted, it is important to recognize that these groups have a substantial motivation to maintain the status quo when it comes to the use of money bail for pretrial release. This reality brings to mind classical conflict theory, whereby society is in a state of conflict or struggle due to the structural inequality between social subgroups (Turner, 1975). In their advocacy, bail bondsmen are not a disinterested group. They benefit financially from an increased reliance on defendants being released pretrial on money bail, with the majority of these defendants relying on bondsmen potentially due to their inability to afford bail. In addition, bail agencies and the insurance companies that underwrite them have a substantial lobbying force, thereby making reform efforts or change more difficult (White, 2017). These realities contextualize the concerns raised by the bail bondsmen community.

However, the research recommendations put forth by advocates of the money bail system are not entirely unwarranted. Often pretrial research and reports on the topic of poverty, money bail, or inability to pay make broad claims that all individuals held pretrial cannot afford to pay. For example, Stevenson (2018) notes, “According to Bureau of Justice Statistics, five out of six people detained before trial are there because they could not afford their bail” (p. 2). Statements such as this are often based on large-scale, aggregate administrative court processing data and make causal links between individuals not paying their money bail and not being able to afford it. They are not, however, based on the actual reasons stated by incarcerated individuals themselves. In actuality, the authors of the BJS report on the pretrial release of felony defendants in state courts note, “Among defendants detained until case disposition, 1 in 6 had been denied bail and 5 in 6 had bail set with financial conditions required for release that were not met” (Cohen & Reaves, 2007, p.1). The authors are careful to state that the financial conditions were *not met*, and do not state that these individuals could not afford to pay. While there is certainly anecdotal evidence to indicate that many individuals incarcerated pretrial are in fact there due to an inability to pay, we are not aware of any study to date that has explicitly asked pretrial defendants held on money bail the reasons and motivations behind why they do not pay. A motivation

of the current dissertation research was to therefore provide evidence from those directly involved in the pretrial process incarcerated with a money bail.

In addition, while on the surface the setting of money bail can disproportionately impact poor defendants that cannot afford to pay, it is also possible that other factors related to poverty may be taken into consideration during the pretrial decision making process that may impact the detention of these defendants. Evaluating extralegal factors related to poverty (e.g. residential stability, housing, employment, income, etc.) and their impact on pretrial decisions warrants exploration.

2.4 Pretrial Reform

The recent spotlight on the criminalization of poverty as it relates to bail decisions, alongside the many advocates hoping to curb mass incarceration, has encouraged a new or “third wave” of pretrial reform efforts, which are focused on actuarial risk assessments. Collectively, these reform efforts symbolize in many ways the pendulum shifts we often see in relation to other reform efforts throughout the juvenile and criminal justice system (e.g. rehabilitation vs. punishment). In the pretrial context, however, the pendulum has swung from an emphasis on pretrial release to pretrial detention.

The first pretrial reform movement took place in the 1960s, resulting in the 1966 passage of the Bail Reform Act, which declared release on recognizance as the presumptive bail decision, including encouraging release on non-financial conditions (Walker, 1993). A second reform movement was seen in 1984 when a second Bail Reform Act was passed, which allowed judges to deny bail if a prosecutor could demonstrate that no other measure could ensure the safety of the community. The 1987 Supreme Court upheld the 1984 act in *United States v. Salerno* (1987) (Schnacke, 2014a). Walker (1993) argues that the 1984 law had far reaching effects, leading to an increase in pretrial detention and incarceration by allowing danger to the community to be the main motivation for pretrial detention.

Today we find ourselves in the “third wave” of pretrial reform. Current reform efforts are encouraging release once again through the use of actuarial pretrial risk assessment

instruments (PRAI) in an effort to encourage the release of defendants determined to be low-risk (Schnacke, 2014a). However, some are concerned that these mechanisms may in fact bring us back towards a reliance on detention. A brief overview of PRAIs and other current reform approaches are discussed below.

2.4.1 Pretrial risk assessment instruments (PRAIs)

The use of pretrial risk assessment instruments (PRAIs) to help assist decision-makers has been increasingly encouraged by critics of the money bail system. Schnacke (2014a) notes that one of the goals of this current era of bail reform, or the “third wave,” is to replace money bail with a system based on empirical risk. This is due to the fact that money bail does not correlate with pretrial misconduct (e.g. new criminal arrest, failure to appear), and decisions based on money appear to be both discretionary and discriminatory (Gottfredson & Gottfredson, 1988).

While risk assessment instruments have commonly been used in helping determine post-conviction placement and services, the use of PRAIs for helping determine bail decisions is a relatively newer development, with a growing number of jurisdictions currently reforming their systems to incorporate these tools. As of 2017, 25 percent of people in the United States live in a jurisdiction with a validated PRAI, up from just 10 percent four years prior. Approximately 28 states have a PRAI implemented, ranging from within a single jurisdiction to throughout the entire state (Pretrial Justice Institute, 2017b).

PRAIs aim to predict the risk of someone not returning to court and their danger to the community should they be released pretrial. Like post-conviction tools, PRAIs evaluate a combination of static (i.e. unchanging factors, such as criminal history) and dynamic risk factors (i.e. changeable factors, such as employment) to determine pretrial risk (Mamalian, 2011). The calculated risk level can then influence the decision being made by judicial officers when determining who should be detained or released. Another goal of PRAIs is to minimize the number of individuals incarcerated unnecessarily due to their inability to pay for money bail, thus decreasing jail pretrial populations. While PRAIs use evidence to help guide

decision-makers, it is important to note that their findings are ultimately only suggestive. In other words, decision-makers still have considerable discretion in determining whether to release or detain an individual, and under what conditions. In addition, risk instruments do not provide recommendations when it comes to the dollar amount for pretrial systems using money bail for pretrial release.

Bechtel, Lowenkamp, and Holsinger (2011) note that the most common risk factors found in PRAIs include a combination of the following: current charge, prior convictions, prior incarcerations, pending charges, prior failure to appear (FTAs), community ties and residential stability, substance abuse, employment, education, and age. However, factors often vary based on the instrument. For example, the current Public Safety Assessment (PSA), a popular PRAI created by Arnold Ventures, does not include neighborhood, employment status, housing, drug use, and other factors they identify as having a racial bias (Arnold Ventures Criminal Justice Team, 2017a).

Some states and jurisdictions have moved towards eliminating money bail in favor of risk assessment tools that help determine who should be released and under what conditions. This was the case with California, which became the first state to eliminate money bail following the signing of SB 10 into law (Ulloa, 2018). Others are attempting to reduce their reliance on money bail by using PRAIs in conjunction with a money bail system, as was seen most recently in New Jersey and Maryland (Pretrial Justice Institute, 2017b). Some states continue to rely on subjective decisions when making pretrial decisions and money bail amount decisions, while others still employ predetermined bail schedules.

Despite the growing popularity of PRAIs, not everyone is on board with their use. Some have highlighted their concerns that risk assessments will lead to what has been termed “e-incarceration,” or the presumption of detention as opposed to release based on the results of these algorithms (Alexander, 2018). In addition, risk assessment factors may discriminate against the poor and people of color. As Alexander (2018) writes, risk instruments “appear colorblind on the surface but they are based on factors that are not only highly correlated with race and class, but are also significantly influenced by pervasive bias in the criminal

justice system” (para. 5). Pretrial reform advocate Alec Karakatsanis echoes these concerns, especially when risk instruments are “grafted” onto money bail systems, thus providing stronger evidence for holding people who cannot pay, but should ultimately be released (Edelman, 2017).

Research, however, has shown that PRAIs are helping to address the issue of jail overcrowding. A 2001 survey of pretrial services programs by the National Institute of Justice found that programs that used a solely subjective pretrial process were twice as likely to have overcrowded jail populations compared to those that used an objective PRAI to determine pretrial misconduct (Clark & Henry, 2003). In addition, research has shown that using a PRAI may decrease jail populations while simultaneously keeping communities safe, as was seen in New Jersey. Following the passage of the New Jersey Bail Reform and Speedy Trial Act, courts were required to use a PRAI to help determine pretrial release, which led to a reduction in the jail population by 17 percent (Hernandez, 2017).

2.4.2 Other reform efforts

In addition to the legislative efforts being undertaken to require the use of PRAIs or eliminate the use of money bail altogether, a number of other measures are being considered to help reform pretrial systems. Some efforts encourage tackling other areas of the criminal justice system that impact the pretrial stage, notably reducing arrests, increasing diversion programs at different stages of the system, as well as encouraging reforms that speed up the length of time it takes to go to trial. Pretrial litigation has also been another avenue for reformers, notably through class action litigation challenging the constitutionality of money bail and other pretrial practices brought about by the nonprofit law firms Civil Rights Corps (CRC) and Equal Justice Under Law (EJUL) (Pretrial Justice Institute, 2018). Finally, community and grassroots efforts have also been seen through the development of community bail funds. These funds help pay for individual’s money bails in an effort to reduce pretrial incarceration, and have been set up in cities such as Boston, Brooklyn, Nashville, and Seattle, and are being explored in St. Louis, Miami, Cincinnati, Oakland, Philadelphia, and

Austin (Santo, 2016). Regardless of the measures being undertaken, the growing emphasis on the need to reform the pretrial stage of the criminal justice system is unmistakable.

2.5 Guiding Principles

The concepts of focal concerns theory and fairness will be used as guiding principles in this dissertation as they relate to issues of poverty. The goal of referencing focal concerns theory is not to test this theory per se, but rather to provide a lens through which to evaluate extralegal factors that will be included in the analysis of pretrial administrative data (Study 3). Focal concerns theory will therefore be incorporated to help guide the analysis portion of this study. In regard to fairness, concepts underpinning procedural justice will be evaluated as they relate to the topic of money bail and the pretrial process, and will be included in the survey and interview portion of this dissertation (Study 1 and Study 2). An overview of both guiding principles will therefore be explored, in particular how they relate to the pretrial stage of the criminal justice process.

2.5.1 Focal concerns theory

The focal concerns theory provides a framework to analyze disparities in sentencing (Steffensmeier, 1980; Steffensmeier, Kramer, & Streifel, 1993; Steffensmeier, Ulmer, & Kramer, 1998). The theory states that judges are guided by three focal concerns when reaching their sentencing decisions, including blameworthiness, protection of the community, and practical constraints and consequences. The focal concern of blameworthiness focuses on the defendant's culpability, criminal history, and the severity of their offense. Protection of community focuses on community safety, notably perceptions of the defendant's dangerousness while emphasizing goals of incapacitation and general deterrence. Finally, the concern of practical constraints focuses on both the organizational costs and constraints that the criminal justice system is faced with, as well as the individual costs of sentencing, including disruption to family and children (Steffensmeier et al., 1993, 1998). However, as

judges do not always have enough information at hand when making decisions in every case, a “perceptual shorthand” may be developed that allows for the inclusion of legally irrelevant or extralegal factors, such as gender, race, and age, or in the case of the current study, factors related to poverty (Steffensmeier et al., 1998).

Although, focal concerns theory has its roots in the sentencing literature, it has also been incorporated in pretrial research through the evaluation of bail setting decisions and outcomes. Ultimately, research evaluating the focal concerns theory in this context has found that legal factors, such as charge severity and prior criminal history, provide stronger predictors of pretrial detention and bail amounts compared to extralegal factors (Wooldredge, Frank, & Goulette, 2017; Gottfredson & Gottfredson, 1988). However, other research has shown that extralegal factors, often focusing on race, gender, and age, impact pretrial decisions as well (M. Sacks et al., 2015; Turner & Johnson, 2005; Demuth, 2003; Demuth & Steffensmeier, 2004; Schlesinger, 2005). Evaluating extralegal factors in the context of pretrial process decisions remains an important area for pretrial research.

Research explicitly evaluating pretrial decisions and outcomes as they relate to extralegal factors of poverty remains limited. One reason for this limitation is data. For example, State Court Processing Data (SCPS) which is often used to analyze bail decisions and outcomes as they relate to legal and extralegal factors, does not include information on defendant’s community ties, employment status, income, educational background, drug abuse history, and mental health status (Cohen & Kyckelhahn, 2010). However, evaluating poverty related factors in the context of these decisions remains important. For example, Holmes, Hosch, Daudistel, Perez, and Graves (1996) found through an evaluation of ethnicity, legal resources, and felony dispositions, that unemployed individuals were disadvantaged when it came to pretrial release, as they were 3.5 times less likely to receive pretrial release compared to employed individuals.

More recently, researchers are also beginning to move beyond a focus on individual-level factors to evaluate aggregate factors as they relate to the pretrial process, including ecological and neighborhood effects (Wooldredge et al., 2017; Vîlcică & Goldkamp, 2015). Although

they found no neighborhood variation in pretrial misconduct, Vîlcică and Goldkamp (2015) found that at the individual-level, defendants from more affluent and stable neighborhoods were less likely to be rearrested for a new pretrial crime. Wooldredge et al. (2017) found that the odds of pretrial detention were higher for defendants charged with crimes committed in more disadvantaged neighborhoods. They also found that the odds of pretrial detention were higher when defendant's neighborhood was more disadvantaged than the neighborhood of the incident, but did not find a significant relationship between neighborhood effects and bond amounts. These findings lead the authors of both studies to argue that the role of community and neighborhood should not be ignored in the context of pretrial research. As concerns regarding the impact of poverty in the pretrial process grow, evaluating poverty as an extralegal factor in the context of pretrial decisions and outcomes, as well as neighborhood factors as they relate to poverty, is necessary.

2.5.2 Procedural justice

Underpinning the current wave of pretrial reform is the notion of fairness regarding bail practices. In particular, many have argued that bail decisions, especially the use of money bail, disproportionately keeps poor defendants incarcerated pretrial. These concerns have raised questions of fairness surrounding pretrial practices. In addition to questions of fairness concerning outcomes, treatment of defendants in the pretrial process has also been spotlighted more recently. During the class-action lawsuit in Harris County, for example, videos were played revealing the disrespectful and at times cruel treatment of pretrial defendants by local judges during the bail setting process. Some judges interrupted defendants and spoke in a demeaning manor towards the defendants (Hardy, 2017). Considering the concept of fairness surrounding the implementation and use of money bail and other pretrial practices has been a major focus of pretrial reform movements, evaluating procedural justice within the bail context is important. This will also be a guiding principle in this dissertation.

Procedural justice is defined as the fairness of processes used by those in positions of power or authority to reach specific decisions or outcomes (Bennett, Hine, & Mazerolle,

2018). Research has shown that perceptions of fairness in terms of treatment by actors in the criminal justice system are important because citizens are more likely to cooperate with the system and accept the outcome of their case when they have perceptions of procedurally just treatment (Tyler, 2006; Tyler & Huo, 2002). In other words, while outcomes matter, the manner in which issues are resolved by the court has important implications for people's acceptance of the court decision, as well as their evaluation of the court system more generally (Tyler, 2006; Tyler & Huo, 2002). In addition, when individuals have positive perceptions of the system and deem criminal justice actors to be legitimate, they are more likely to obey the law moving forward (Tyler, 2006). Research on procedural justice has been most influential within the policing field (Nagin & Telep, 2017), although studies have also evaluated procedural justice within the courts, including plea bargaining and sentencing (Tyler & Huo, 2002; O'Hear, 2007, 2008). Through an evaluation of two California cities, Tyler and Huo (2002) found, for example, that the fairness of court procedures was the primary factor shaping court participants' willingness to accept decisions, with procedural justice also being the primary factor in shaping participant's overall view of the court system.

No study that we are aware of, however, has looked at the relationship between procedural justice and the pretrial process stage in the United States, particularly opinions on the money bail decision and treatment during the pretrial hearing process. An evaluation of procedural justice in England and Wales, however, found that defendants believed bail decisions to be arbitrary and believed stakeholders worked together to undermine defendant's rights to a fair and impartial trial (Irwin-Rogers & Shuter, 2017). Echoing several of these sentiments seen in England and Wales, Tyler suggests four elements of procedural justice that influence judgements about fairness which are relevant to the pretrial process (Tyler, 1988; Tyler & Thorisdottir, 2003; LaGratta & Tyler, 2017). These elements include voice, neutrality, respect, and trust. Voice/participation includes feeling as though one has been heard in the process, and given a chance to tell one's side of the story. Neutrality refers to perceptions that decision-makers were unbiased. Treatment with respect, as the title suggests, refers to feeling treated in a dignified and respectful manner. Lastly, trust in

authorities includes feeling that decision-makers are trustworthy. In addition, the element of promoting understanding of the process is another important element (LaGratta & Tyler, 2017). Conceivably, these principles are relevant in helping interpret perceptions of fairness within the context of the pretrial process.

Some individuals have already taken note on the importance of incorporating elements of procedural justice in the pretrial process. Several judges in the United States are beginning to emphasize the importance of implementing principles of procedural justice within their jurisdiction in an effort to curb issues related to fines and fees, as well as over-incarceration in general. Berman and Adler (2018) highlighted the Newark Municipal Court in New Jersey and the Red Hook Community Justice Center in New York as examples of courts taking such steps. Judge Victoria Pratt of Newark, for example, emphasized the importance of communicating effectively and respectfully with defendants, and a defendant in Red Hook noted he felt that Judge Alex Calabrese gave him an opportunity to be heard. In addition, Berman and Adler (2018) concluded that evidence of the success of programs such as Red Hook suggests that “marrying procedural justice to alternatives to jail and fines and fees can reduce recidivism and increase public safety” (pg. 62). While these jurisdictions and judges appear to be at the forefront of incorporating procedural justice in their court rooms, better understanding the relationship between procedural justice and specific bail processes and outcomes remains necessary. As a result, a goal of this dissertation is to evaluate perceptions of procedural justice and fairness more generally by those directly affected by money bail decisions (Study 1 and Study 2).

Chapter 3: Three Bail Studies

The aim of this dissertation was to evaluate the impact of poverty on the pretrial process. Defendants incarcerated pretrial, either by being detained pretrial (i.e. no bail) or being held on a money bail (e.g. secured bond), are the principle focus of this research. Since 2000, the vast majority of growth (95 percent) in jails is attributed to the increase in the pretrial population (Minton & Zeng, 2015). In addition, approximately 65 percent of individuals held in jail are pretrial defendants (Zeng, 2018). Due to the growth of the pretrial population, the focus of this dissertation is therefore on individuals incarcerated pretrial, in particular those held with a money bail.

A mixed methods design was used to conduct this dissertation research, which resulted in three bail studies. These studies included a quantitative analysis of survey data (Study 1), a qualitative analysis of interview data (Study 2), and a quantitative analysis of pretrial administrative data (Study 3). The qualitative component of this study helped supplement the quantitative analyses by providing context and depth to the findings for defendants held on a money bail. The goal of each study was to provide further insight on the potential impact of poverty on incarcerated pretrial defendants, in particular those held on a money bail. In this section, each study will be presented separately and include a methodology, result, and discussion section for each unique study. An overall discussion of these studies will conclude this dissertation. Table 3.1 presents an overview of each study objective, method, data source, and sample.

Background of Studies

Studies 1 and 2 include data collected in 2016 from a project funded by the Pretrial Justice Institute (PJI). These studies were part of a larger study that evaluated issues related to

Table 3.1: Study Overview

Study	Objective	Method	Data Source	Sample
Study 1	To evaluate the reasons why incarcerated defendants who are offered a money bail do not pay.	Quantitative analysis	Survey data	Incarcerated pretrial defendants in four jail facilities held on a money bail
Study 1	To evaluate potential collateral consequences for defendants who are offered a money bail but do not pay.	Quantitative analysis	Survey data	Incarcerated pretrial defendants in four jail facilities held on a money bail
Study 1	To evaluate perceptions of procedural justice and fairness surrounding the pretrial process for pretrial defendants offered a money bail.	Quantitative analysis	Survey data	Incarcerated pretrial defendants in four jail facilities held on a money bail
Study 2	To evaluate the impact of poverty on detained pretrial defendants held on money bail.	Qualitative analysis	Interview data	Incarcerated pretrial defendants in four jail facilities held on a money bail
Study 3	To examine whether a relationship exists between poverty and the initial court decision of being detained without a bail versus being offered a money bail for those individuals who are incarcerated pretrial.	Quantitative analysis	Administrative data	All incarcerated pretrial defendants in a single jail facility (held without bail or with a money bail)
Study 3	To examine whether a relationship exists between poverty and the final bail outcome (no bail versus money bail).	Quantitative analysis	Administrative data	All incarcerated pretrial defendants in a single jail facility (held without bail or with a money bail)
Study 3	To examine whether a relationship exists between poverty and the pretrial outcome for those given a money bail (pay and leave versus don't pay and stay).	Quantitative analysis	Administrative data	Incarcerated pretrial defendants held on a money bail in a single jail facility
Study 3	To examine whether a relationship exists between poverty and the money bail set.	Quantitative analysis	Administrative data	Incarcerated pretrial defendants held on a money bail in a single jail facility
Study 3	To examine whether a relationship exists between poverty and length of time incarcerated pretrial.	Quantitative analysis	Administrative data	All incarcerated pretrial defendants in a single jail facility (held without bail or with a money bail)

both incarcerated and released pretrial defendants. The overall purpose of the entire PJI study was to better understand the experiences and perceptions of incarcerated and released pretrial defendants on the bail process, and in particular on the use of money for release. Potential collateral consequences and concepts of procedural justice were also explored.

Study 1 (surveys) and Study 2 (interviews) within this dissertation research explored the data collected in the PJI study focusing specifically on the incarcerated pretrial group. In conducting this research, a survey approach was used in order to obtain as many responses as possible to our research questions within the participating jail facilities. Interviews were also conducted in order to provide more depth to the topics explored in the survey. To our knowledge, neither surveys nor interviews had previously been conducted on this topic, which is why using both methods seemed appropriate to expand the base of knowledge. For the original PJI technical report, descriptive analyses of the survey data were explored, but interview data was ultimately not analyzed as part of the PJI project. Interview data from the original PJI project will be explored in this dissertation.

Throughout the data collection phase of the PJI project, it became increasingly evident that including an analysis of administrative data would also provide valuable insight to the overall objective of better understanding the impact of poverty on the pretrial process. In particular, we believed it would be beneficial to evaluate additional elements of poverty (e.g. employment status, income, etc.), as well as risk assessment information. This led to the development of Study 3 and the inclusion of pretrial administrative data. Taken together, all three studies provide a more complete and varied look at the impact of poverty on the pretrial process than research to date.

Site Selection

A purposive sampling approach was used to select four jails to participate in the PJI study. The jail facilities were selected based on proximity and accessibility to the researcher, as well as the researcher wanting a diversity of jails represented in this study (e.g. location, size). Contacts within each jail facility were provided to the author by a researcher at PJI.

All four jail facilities that were asked to partake in the study agreed to participate. Due to the exploratory nature of the PJI study, this method for site selection was appropriate.

The four jail facilities were located within three states (two Mid-Atlantic states, and one Mountain West state), and within a total of four jurisdictions. As a result of the author's connections based on the PJI study, data used in Study 3 was collected from one of the jails included in Study 1 and Study 2 (Jail 1). Data collected from Jail 1 were therefore included in every study in this dissertation. Table 3.2 provides an overview of study locations included in each study in this dissertation.

Table 3.2: Study Location Breakdown

Jail Facility	State Location	Data Included in Study
Jail 1	Mid-Atlantic State A ^a	1, 2, & 3
Jail 2	Mid-Atlantic State A ^a	1 & 2
Jail 3	Mid-Atlantic State B	1 & 2
Jail 4	Mountain West State	1 & 2

^a Represents a unique jurisdiction within the state.

Each of the jails and their respective locations shared important similarities and differences. For example, two of the jails (Jail 1 & 3) serve a large and diverse urban and suburban population in Mid-Atlantic states. Another (Jail 2) serves a mixed suburban and rural community also in a Mid-Atlantic state, and is the least populous of the locations evaluated in this dissertation. The last (Jail 4) serves a middle-sized Mountain West community, less populous than those served by Jails 1 and 3, but more populous than Jail 2. In terms of the size of the jail facilities, Jail 1 has a maximum average daily population (ADP) of 1,260 individuals, Jail 2 has an ADP of 456 individuals, Jail 3 an ADP of 581 individuals, and Jail 4 an ADP of 1,038 individuals. These factors impact the size, community, and services each of these jails provides. In addition, all of the jails evaluated in this dissertation use a pretrial risk assessment instrument (PRAI) and did at the time of data collection. The pretrial legal process is therefore similar between the jails. This variety in jail characteristics

helps ensure that the findings from this study will not be dependent on the particulars of a single location, enhancing the generalizability of the findings nationally.

3.1 Study 1 - A Survey

3.1.1 Overview

The purpose of this study was to better understand the experiences and perceptions of incarcerated pretrial defendants on the bail process, and in particular on the use of money for release. Potential collateral consequences and concepts of procedural justice were also explored. Self-report data were collected through brief surveys conducted by pretrial incarcerated defendants with the option of paying a money bail in four jail facilities ($n=220$) across three states.

The majority of the incarcerated pretrial defendants were held on a low-level money bail (below \$5,000), and most participants had been incarcerated for over a month. The most common reason participants noted not paying their bail was that they could not afford it, followed by their families could not afford it, although additional reasons not originally listed in the survey emerged as well. Retaining employment appears to be a significant potential collateral consequence for defendants held on a money bail, with the vast majority of those previously employed prior to incarceration believing they may lose their job. Finally, as the bail amount increased, perceptions of procedural justice decreased. This study offers unique insight into the several and interrelated reasons defendants remain in detention despite being offered the opportunity to pay a money bail. It also shows the real and potential concerns, particularly related to employment and child living situations, of incarcerated pretrial defendants.

3.1.2 Methods

Self-report data were collected from incarcerated pretrial defendants held on a money bail in jail. A brief 25-question survey was developed for participants in jail. This survey was also

translated into Spanish for Spanish-speaking participants. The survey was administered at four jail facilities over a two-month period (March to May, 2016). This research took place in three states (two Mid-Atlantic states, and one Mountain West state), and within a total of four jurisdictions. A total of 220 incarcerated defendants completed the survey.

Inclusion Criteria

The goal of this study was to conduct a brief survey with incarcerated defendants who were offered a money bail by a judge or magistrate at an initial bail hearing and who at the time of data collection had not paid their bail. Participants were eligible for this study if they had been incarcerated for a minimum of 48 hours. This time frame was chosen due to the fact that most initial bail hearings happen within 48 hours after arrest. Initially, a maximum bail amount of \$50,000 was set as the cut off for inclusion in this study, and we believed 48 hours was enough time to allow participants to begin considering whether or not they planned to pay their bail. However, upon discussing inclusion criteria with one jail facility administrator prior to data collection it was brought to our attention that they were unable to identify exact bail amounts for eligible participants and this restriction was therefore removed. There was ultimately no limitation on the maximum bail amount set by the jurisdiction for inclusion of a defendant in this study.

Survey Tool

A 25-question paper-and-pencil survey was created with questions related to understanding participants' experiences and perceptions of the pretrial and bail process. General demographic questions were also included. Several questions relating to procedural justice, or perceptions of fairness and whether they felt treated with respect, were also included in the survey. Several questions also addressed potential collateral consequences as a result of their incarceration, including loss of housing, employment, and child custody. Finally, questions pertaining to opinions on the use of money for the goals of returning to court and not conducting future crime were also presented.

Several content experts at PJI in collaboration with the author of this study and the dissertation chair reviewed the survey prior to data collection. The survey was translated into Spanish, and was therefore available in both English and Spanish (see Appendix A). An initial pilot of the survey was conducted with eligible participants at Jail 1 prior to official data collection commencing. Feedback from these participants for both the English and Spanish version of the survey was provided and minor edits were made accordingly. No identifying information (e.g. name, exact birth date) was collected in order to maintain participant confidentiality. The survey took individuals between 10 and 15 minutes to complete.

Data Collection

The data collection method was dependent on the unique nature of each jail facility and took place over a two-day period for Jail 1, and over a one-day period for Jails 2, 3 and 4. Jails 2, 3 and 4 were able to generate a list of all participants who were eligible for participation, or individuals held pretrial on a money bail, prior to the researchers' arrival. Since Jail 1 was not able to produce this list, the researchers expanded the data collection from one to two days. For Jails 2, 3 and 4, the researchers were either guided to each unit in the jail where participants were eligible (e.g. dormitory, pod, etc.), or eligible participants were brought to the researchers (e.g. in classrooms, attorney rooms) based on the security protocol for each jail facility. When the researchers arrived at each housing unit, correctional staff called eligible participants to a common area and the researchers explained the nature of the research, provided a document of informed consent in either English or Spanish, and obtained consent from each participant (see Appendix B). Eligible participants who were brought to the researchers in classrooms or attorney rooms underwent a similar protocol. Participants who were uninterested in participating in the survey were free to decline.

Jail 1 was unable to compile a list of eligible participants (i.e. pretrial defendants currently in jail with money bail). As a result, researchers were escorted to each housing unit

in the facility and verbally addressed entire units about the eligibility criteria for participation in the study. Willing participants then remained in common areas or were escorted to classrooms where consent was reviewed and obtained. The goal for each jail facility was to collect a census of pretrial defendants in jail on that day (or two-day period) with money bail who had been incarcerated for a minimum of 48 hours. We were unable to obtain data on who was eligible to participate from Jail 1. Of the three jails where the researchers were able to obtain data on eligible defendants, 233 participants were asked and 179 participants agreed to participate, with a response rate of 76.8 percent for these three jails.

A breakdown of study participants per jail facility is provided in Table 3.3. The largest percentage of participants came from Jail 4 (52 percent), followed by Jail 3 (27 percent). Jail 2, while the smallest of the jails included in this study, had a surprisingly modest number of eligible participants for this study. When asking the jail’s superintendent why this was the case, they stated that this was due to the fact that the jurisdiction’s district attorney does not believe in money bail, in addition to having a strong relationship with their pretrial services agency that encourages release in lieu of money bail. All eligible participants in Jail 2 participated in the study ($n=5$).

Table 3.3: Study Participants per Jail Facility

Jail Facility	State	<i>n</i>	%
Jail 1	Mid-Atlantic State A	41	18.6
Jail 2	Mid-Atlantic State A	5	2.3
Jail 3	Mid-Atlantic State B	60	27.3
Jail 4	Mountain West State	114	51.8
Total		220	100.0

Hypotheses

Based on the objectives of this study, three hypotheses were evaluated. Table 3.4 provides a corresponding hypothesis for each objective in Study 1.

Table 3.4: Study 1 Hypotheses

Objective	Hypothesis
1) To evaluate the reasons why incarcerated defendants who are offered a money bail do not pay.	1) Inability to pay will be the main reason why incarcerated defendants held pretrial do not pay their money bail.
2) To evaluate potential collateral consequences for defendants who are offered a money bail but do not pay.	2) Pretrial incarcerated defendants held on a money bail will note a number of collateral consequences as a result of not paying, including loss of employment, housing, and child custody issues.
3) To evaluate perceptions of procedural justice and fairness surrounding the pretrial process for pretrial defendants offered a money bail.	3) Pretrial incarcerated defendants with higher money bail will have less favorable views of procedural justice for the pretrial process compared to individuals with lower bail amounts.

Analysis

Following data collection, survey responses were hand coded on the original paper surveys (i.e., converting check boxes into numeric values), and then entered into EpiData Software program. This software is specifically designed for survey data entry and can be setup to help ensure data accuracy. A method of double coding was used whereby the data for each survey were entered twice by the researcher into EpiData and any discrepancies between the two entered versions were reconciled. This is a standard data entry process used for ensuring the accuracy of the data. Data were analyzed using the Stata statistical software program.

In evaluating perceptions of procedural justice during the pretrial process, a procedural justice scale was developed based on three Likert-scale survey items. These three items measured perceptions of fairness regarding the bail amount, fairness of the bail hearing process, and whether participants felt they were treated with respect during their most recent bail hearing. The procedural justice scale was then used to analyze potential relationships to other pretrial and demographic variables evaluated in the study.

Finally, two regression analyses were conducted to evaluate the relationship between poverty-proxy variables and individuals' plans to pay, as well as perceptions of procedural justice. These poverty-proxy variables included employment and transient housing status. While being unemployed and transient housing status does not indicate poverty per se, they are arguably reasonable measures of poverty. Being unemployed leads to a loss of income and perpetuates cycles of poverty. For example, the monthly poverty rate for households with a long-term unemployed member (six or more months) is considerably higher when compared to the rate for households with no long-term unemployment (Nichols & McDade, 2013). Transient housing was also included as a poverty-proxy variable because transient housing or homelessness and poverty are often linked, with poverty being one of the main causes of homelessness (National Law Center on Homelessness & Poverty, 2015). A mixed-effects logistic regression was used to evaluate whether an individual planned to pay their bail or not, and a mixed-effects Ordinary Least Square (OLS) regression was evaluated to explore perceptions of procedural justice. Mixed-effects models were used to account for potential differences between the four jail facilities included in this study.

3.1.3 Results

Participant Demographics

A total of 220 pretrial incarcerated defendants completed surveys for this study. An overview of participant demographics is provided in Table 3.5. The largest group of participants in this study were between the age range of 18 and 24 (29%), followed by 31 to 40 (26%), with the mean age of all participants being 32.65 years old. The vast majority of participants included in the study were male (76%). The highest level of education for close to half of study participants was high school or GED (44%), followed by less than high school (24%), and some college (21%). For race and ethnicity, participants were given the opportunity to select multiple options on the survey. White represented the largest selected option (40%) followed by African American (27%) and Hispanic (32%).

Table 3.5: Jail Participant Demographics

Characteristic	<i>n</i>	%
Age ^a		
18-24	57	28.9
25-30	43	21.8
31-40	52	26.4
41-50	26	13.2
51-60	17	8.6
61+	2	1.0
Gender ^b		
Male	167	76.0
Female	53	24.0
Education ^c		
Less than high school	51	24.1
High school diploma or GED	94	44.3
Some college	44	20.8
Associates Degree	9	4.3
College or Advanced Degree	14	6.6
Race/Ethnicity ^d		
White	86	40.0
African American	59	27.4
Hispanic	69	32.1
Other	32	14.9

^a *n* = 197. ^b *n* = 220. ^c *n* = 212.

^d *n* = 215 (per race/ethnicity option). Total percentage exceeds 100 as participants could select multiple options.

Pretrial Process Experiences and Perceptions

Univariate Analysis

A number of questions in the survey aimed to get a better understanding of participants' overall current pretrial situation (e.g. dollar amount of bail, time spent in jail), their plans to pay or not pay their bail, and their experience with paying bail in the past. Another aim was to evaluate why incarcerated defendants do not pay their money bail.

An overview of participant bail amounts and time spent in jail is provided in Table 3.6. Nearly a third of participants in the study (32%) had a money bail between the \$1,001 and \$5,000 range. The next largest percentage of individuals in our study were held on bails of less than \$1,000 (19%). Therefore, nearly half of participants included in this study were held on money bail of less than \$5,000. Finally, approximately a fifth (21%) of participants included in this study were held on a bail exceeding \$25,001. The majority of participants in this study (52%) were in jail for more than 31 days at the time of data collection, with nearly 30 percent of these individuals being held for more than 60 days.

An overview of participants plans for paying their money bail, and their previous experience with bail, is provided in Table 3.7. The majority of participants in the study stated that they do not plan to pay their money bail (60%). Within the group of participants planning to pay, the vast majority indicated they planned to use a bail bondsman (86%), compared to paying the court directly. Approximately 10 percent of participants, however, stated that they were not sure of their plans to pay at the time. We then asked participants planning to pay and those that were unsure how they anticipated paying their bail. Of those 87 individuals, nearly half stated that they plan to get help from family (51%). Nearly a third of participants indicated that they would use their own money to post their bail.

All study participants were asked why they had not, or will not, pay their money bail. Participants could indicate as many reasons as possible. The majority of participants indicated that they cannot afford to pay (56%), followed by their family cannot afford to pay (34%). In evaluating only those participants who indicated outright that they did not plan

Table 3.6: Money Bail Amounts and Length of Time in Jail

Characteristic	<i>n</i>	%
Bail amount ^a		
\$1 to \$1,000	42	19.3
\$1,001 to \$5,000	69	31.7
\$5,001 to \$10,000	31	14.2
\$10,001 to \$25,000	30	13.8
\$25,001 to \$50,000	17	7.8
\$50,000 to \$100,000	17	7.8
\$100,000+	12	5.5
Time in jail ^b		
Less than 7 days	21	9.6
8 to 14 days	17	7.8
15 to 30 days	68	31.1
31 to 60 days	51	23.3
60 + days	62	28.3

^a *n* = 218. ^b *n* = 219.

to pay (*n*=128), we saw roughly the same reasons as the total group of respondents on this question (*n*=184), with 58 percent indicating they cannot afford to pay and 35 percent indicating that their family cannot afford to pay. Ultimately, we found that a total of 120 participants (65%) indicated inability to pay, either by their personal inability to pay or by their family’s inability to pay, as a reason their money bail was not, or will not be, paid. Other reasons for not paying included family not wanting to, or telling them not to (12%), individuals not wanting to (11%), legal reasons (9%) (e.g. bonds or warrants in another jurisdiction, immigration issues, sentenced on another case), and lawyer recommendation (3%).

A quarter of individuals included in this study (*n*=47), however, selected “Other” in response to this question and many filled out responses in the text field option. As a result, these specific responses were analyzed and a new set of categories were created based on 29 “Other” responses (see Table 3.8). The most commonly written in reason for not posting bond was to get time served (6.5%, *n*=12). In addition, none of the 20 individuals that

Table 3.7: Money Bail Plans and Pretrial Experience

Characteristic	<i>n</i>	%
Plan to pay money bail ^a		
Yes	66	30.7
No	128	59.5
Not sure	21	9.8
How planning to pay ^{b, c}		
Using own money	29	33.3
Help from family	44	50.6
Help from friends	21	24.1
Other	15	17.2
Why have not/Will not pay ^{c, d}		
I cannot afford it	103	56.0
Family cannot afford it	63	34.2
Family does not want to/told me not to	22	12.0
I do not want to	20	10.9
Legal reasons	17	9.2
Lawyer recommendation	6	3.3
Other	47	25.5
Paid bail before and how ^{c, e}		
Yes, I used a bail bondsman	115	53.2
Yes, I paid the court directly	29	13.4
No, I have no prior arrests	40	18.5
No, I was released on recognizance	27	12.5
No, I was not offered a bail	9	4.2
Other	20	9.7

^a *n* = 215. ^b *n* = 87 participants who answered “Yes” or “Not sure” to “Plan to pay money bail.” ^c Multiple selections possible; total percentage exceeds 100.

^d *n* = 184. ^e *n* = 216.

Table 3.8: Other Reasons Bail Not Paid

Characteristic	<i>n</i>	%
Get time served	12	6.5
Homeless, co-signer and/or address issues	9	4.9
Bondsman issues	3	1.6
Personal belief against paying bail	3	1.6
Taking money from family/children	2	1.1

Note: Table based on 29 write-in responses to all those that selected “Other” to reasons bail not paid (n=47); Unable to group 18 responses due to lack of a clear grouping or no write-in response in “Other” text field. Overall percentages based on total sample responding to this question (n =184).

selected “I don’t want to” on the survey chose the “Other” option. It is therefore possible that some of the individuals that selected “I don’t want to” may also potentially want to get time served, making this percentage higher than indicated here. Interestingly, of the 12 individuals that wrote-in “get time served,” only three indicated either they or their family could not afford the bond.

Nearly five percent of individuals indicated homelessness, issues with getting a co-signer (some due to living in a shelter), or inability to give an address (because of homelessness/living in shelter) as other reasons for not posting bail. Other reasons included bondsman issues (e.g. bondsman unwilling to help individual), personal beliefs against having to pay bail, or not wanting to take money from their family or children as reasons they did not or will not pay.

A final area of interest was whether participants had previous experience paying a bail. Nearly half of participants in the study indicated that they had previously posted bail for a prior arrest using a bail bondsman (53%). Approximately 19 percent of participants, however, indicated that they had no prior arrests.

Bivariate Analysis

Additional relationships were explored within our pretrial process questions. We were interested in evaluating the relationship between bail amount and jail time. We found that there was a moderate and positive correlation between bail amount and jail time ($r=0.35$, $p<0.01$). As bail amounts increased for participants in our study, the time they had spent in jail pretrial also increased. Therefore, it appears that participants with higher money bail amounts are more likely to stay in jail for longer periods of time pretrial.

Another area of interest included evaluating the time spent in jail and participant's plans to pay. Participants in our study that did not plan to pay were incarcerated for the longest amount of time (61 days or more) compared to the other groups (see Table 3.9). Approximately 86 percent of participants who do not plan to pay had been incarcerated for more than 15 days, compared to 76 percent of individuals planning to pay. We also see a statistically significant relationship between the lengths of time in jail and plans to pay ($\chi^2(8, n=214) = 19.31, p < 0.01$). Another area of interest included examining the relationship between plans to pay bail and bail amounts. In evaluating bail amounts and plans to post bail, we found that there was no consistent or meaningful pattern between the amount of the bail and whether or not participants plan to pay (see Table 3.10). Finally, we also explored relationships between an individual's criminal history (captured by those that indicated having no prior arrest) and plans to post, bail amount, and time spent in jail. We found no meaningful and statistically significant relationships between these variables.

We were also interested in evaluating relationships between participant's demographic information and pretrial process questions. First, we evaluated race/ethnicity and bail process variables. Since we allowed participants to choose multiple options for race/ethnicity, this variable was recoded to capture individuals that selected White only ($n=67$), African American only ($n=56$), Hispanic only ($n=56$), and other only ($n=11$), so as to not double count individuals. In looking at length of time in jail and race/ethnicity, we found that there was not a meaningful or statistically significant relationship between these two variables. We

Table 3.9: Plans to Pay Bail and Length of Time in Jail

Time in jail (days)	Plan to Pay					
	Yes		No		Not Sure	
	<i>n</i>	%	<i>n</i>	%	<i>n</i>	%
<7	12	18.2	6	4.7	2	9.5
8–14	4	6.1	12	9.5	1	4.7
15–30	24	36.4	34	26.8	9	42.9
31–60	9	13.6	34	26.8	7	33.3
>60	17	25.8	41	32.3	2	9.5
Total	66	100	127	100	21	100

$$\chi^2(8, n = 214) = 19.31, p < 0.01$$

Table 3.10: Plans to Pay Bail and Bail Amount

Bail Amount	Plan to Pay					
	Yes		No		Not Sure	
	<i>n</i>	%	<i>n</i>	%	<i>n</i>	%
\$0–\$1,000	18	27.3	22	17.5	1	4.8
\$1,001–\$5,000	17	25.8	42	33.3	9	42.9
\$5,001–\$10,000	11	16.7	18	14.3	2	9.5
\$10,001–\$25,000	7	10.6	19	15.1	2	9.5
\$25,001–\$50,000	2	3	12	9.5	3	14.3
\$50,001–\$100,000	7	10.6	7	5.6	3	14.3
>\$100,000	4	6.1	6	4.7	1	4.7
Total	66	100	126	100	21	100

$$\chi^2(12, n = 213) = 13.96, p = 0.3$$

then evaluated the relationship between race/ethnicity and bail amounts. We also found that there was not a meaningful relationship between race/ethnicity and bail amounts for study participants. However, when looking more closely at the distributions between race/ethnicity and bail amounts, some potentially interesting differences did emerge. White participants were more likely to have lower bail amount in the ranges of \$0 and \$1,000 and \$1,001 and \$5,000 compared to African American and Hispanic participants. African American respondents were more likely to have bail amounts between the \$5,001 and \$10,000 range when compared to White and Hispanic respondents. However, these differences were not statistically significant, and as such, must be viewed with caution.

Another area of interest included evaluating the relationship between plans to pay and race/ethnicity, as well as the relationship between cannot afford to pay and race/ethnicity. Again, the relationship between plans to post and race/ethnicity was not statistically significant. However, the relationship between race and those that selected “I cannot afford it” was statistically significant. White participants were more likely to indicate they could not afford their bail (67%) when compared to Other (63%), Hispanic (56%) and African American participants (34%) [$\chi^2(3, n = 161) = 12.24, <0.01$]. Interestingly, Hispanic participants (50%) were more likely to indicate “My family cannot afford it” compared to Other (38%), White (25%) and African American (16%) participants [$\chi^2(3, n = 161) = 14.43, <0.01$].

Relationships were also explored between age and gender and bail process variables, although no significant or meaningful relationships were found. In evaluating education, however, a relationship between bail amount and education was statistically significant [$\chi^2(24, n = 210) = 38.16, <0.05$]. Individuals with less than high school education were more likely to receive bail within the lowest amount category (\$0 to \$1,000) compared to higher education groups. Interestingly, when bail amounts increased to between \$1,001 to \$5,000, college educated individuals were more likely to receive this amount compared to the other education groups. Finally, those with an associates degree or advanced degree had a higher likelihood of receiving a bail in the \$10,001 to \$25,000 range.

Collateral Consequences

Univariate Analysis

An important issue for pretrial defendants is the potential collateral consequences they may face as a result of their detention, including potential disruptions to employment, their living situation, and child custody for those with children (see Table 3.11). We therefore asked participants in this study about potential consequences they perceived as a result of their pretrial incarceration. The majority of participants in this study indicated being employed prior to their arrest (70%). Of those who were employed prior to arrest, the vast majority indicated that they may lose their job as a result of being incarcerated (84%). We therefore see that loss of employment is a major concern for incarcerated pretrial defendants.

In terms of living situation, living with family or a significant other was the most commonly selected response (44%), followed by living alone (17%). Nearly 26 percent of participants live in unstable housing, which we classified as transient (e.g. on the streets, motel, shelter, halfway house, vehicle, or “place to place”), with 12 percent of participants within this group indicating that they live on the street. Most participants indicated that they had lived in their living arrangement prior to incarceration for six months or more (55%). While many respondents indicated that they plan to live in the same arrangement when they are out of jail (39%), a quarter indicated that they will not (25%), and approximately 36 percent indicated that they are not sure. This indicates that living arrangements are potentially disrupted for a large percentage of pretrial defendants.

In our study population, 122 participants (56% overall) indicated that they are parents or guardians of a child. Of those parents or guardians, nearly 40 percent indicated that being in jail has or will change the living situation for the child/children in their custody, although 43 percent indicated it would not. Approximately 16 percent responded that they are not sure. Therefore, a fairly significant percentage of participants’ children’s lives are potentially disrupted as a result of pretrial detention.

Table 3.11: Potential Collateral Consequences

Characteristic	<i>n</i>	%
Employed prior to arrest ^a		
Yes	153	70
No	66	30
May lose job because of incarceration ^b		
Yes	128	84.3
No	24	15.7
Living prior to arrest ^a		
Living with family/Significant other	96	43.8
Living with roommates	27	12.3
Living alone	38	17.4
Transient	56	25.6
Other	2	0.9
How long living in arrangement for ^a		
Up to 1 month	25	11.4
1–3 months	41	18.7
3–6 months	33	15.1
6 or more months	120	54.8
Will live in same place when out of jail ^c		
Yes	86	39
No	55	25
I don't know	79	36
Parent or guardian ^d		
Yes	122	56
No	96	44
Living situation for child/children has/will change ^e		
Yes	49	40.5
No	52	43
I don't know	20	16.5

^a *n*=219. ^b *n*=152. Based on 153 participants who answered “Yes” to employed prior to arrest. ^c *n*=220.

^d *n*=218. ^e *n*=121. Based on 122 participants who answered “Yes” to parent/guardian.

Finally, we were also interested in evaluating whether participants felt that being incarcerated would help improve their relationship with family. Of the 216 participants who responded to this question, the majority (55%) indicated that they disagreed or strongly disagreed that incarceration would or had improved their relationship with their family. Conversely, 46 participants, or roughly 20 percent, indicated that they strongly agreed with this statement. Thus, there is no clear effect of incarceration on the quality of family relationships as perceived by these pretrial individuals.

Bivariate Analysis

Relationships between employment, living situation and child custody were also explored in conjunction with bail process variables. We found no statistically significant relationships for prior employment and the bail process variables of plans to pay, jail time, and bail amount. Despite this, we found that those with employment prior to incarceration were more likely to indicate they would pay their bail compared to those without prior employment (78% compared to 67%). Those without employment were more likely to be either unsure about paying, or do not plan to pay compared to those with prior employment.

In terms of living situation, a statistically significant relationship was found only with the bail process variable of bail amount [$\chi^2(24, n = 217) = 36.76, <0.05$]. For individuals classified as transient, approximately 63 percent had bail below \$5,000, followed by those living with roommates at 55 percent, and those living with family or friends at 47 percent. In other words, individuals in our sample with less stable housing received lower bail amounts. There was no statistically significant relationship found between living situation and plans to pay or jail time.

Finally, in evaluating child custody, a statistically significant relationship was also only found between child custody and bail amount [$\chi^2(6, n = 216) = 13.06, <0.05$]. Individuals without children were more likely to have a bail amount under \$5,000 (62%), compared to those with children (42%). There was also no statistically significant relationship found between child custody and plans to pay or jail time.

Procedural Justice and Opinions on Money Bail

A final issue we were interested in exploring was participant perceptions of fairness with the pretrial process, or procedural justice. We created a procedural justice scale based on three 5-point Likert-scale survey items (ranging from 1 = “Strongly disagree” to 5 = “Strongly agree”). The three items included in the scale measured perceptions of fairness regarding the bond amount, fairness of the bond hearing process, and whether participants felt they were treated with respect during their most recent bond hearing. The scale had high internal consistency ($\alpha = 0.83$), suggesting that the items “hang together” as a meaningful scale. The mean was 2.4 ($SD = 1.25$), indicating that respondents were more likely to slightly disagree than agree with the procedural justice items.

The procedural justice scale was then used to analyze potential relationships to other pretrial process variables (see Table 3.12). In looking at plans to pay bail and procedural justice, we found that participants planning to pay had higher scores ($M = 2.51$, $SD = 1.3$) compared to those not planning to pay ($M = 2.35$, $SD = 1.23$). Those that were not sure, however, had the highest score ($M = 2.63$, $SD = 1.35$). Those that do not plan to pay appear to feel the pretrial process may be more unfair for them compared to those that do plan to pay or those that are not sure, although these differences were not significant.

Significant differences were, however, seen between bail amounts. Individuals with higher amounts had substantially lower scores on the pretrial scale compared to those with lower amounts ($F(6, 210) = 3.32$, $p = .004$). A Tukey post-hoc test revealed that those with money bail amounts between \$1,000 to \$5,000 had significantly higher scores on the procedural justice scale compared to those with money bail set between \$10,001 to \$25,000 and over \$100,000. Therefore, it appears that participants with higher bond amounts believe that the pretrial and bail process is less fair for them.

In contrast, no meaningful relationship was seen between amount of time in jail and the procedural justice scale, although individuals incarcerated for less time appear to have higher perceptions of procedural justice when compared to those incarcerated for longer periods of time. Lastly, no meaningful relationship was found between whether an individual had a

Table 3.12: Mean Differences in Procedural Justice Scale Scores by Bail Process Variables

Characteristic	<i>n</i>	Mean	Standard Deviation	<i>t/F</i>
Plan to pay	215	2.40	1.26	0.64
Yes	66	2.51	1.30	
No	128	2.35	1.23	
Not sure	21	2.63	1.35	
Bail amount	217	2.43	1.25	3.32**
\$0–\$1,000	41	2.60	1.34	
\$1,001–\$5,000	69	2.75	1.20	
\$5,001–\$10,000	31	2.58	1.35	
\$10,001–\$25,000	30	2.23	1.16	
\$25,001–\$50,000	17	2.08	1.08	
\$50,001–\$100,000	17	1.69	0.86	
>\$100,001	12	1.64	1.07	
Jail time (days)	218	2.43	1.24	0.71
<7	21	2.79	1.24	
8–14	17	2.25	1.30	
15–30	67	2.46	1.22	
31–60	51	2.29	1.16	
>60	62	2.44	1.33	
Prior criminal history	215	2.43	1.24	0.49
No	39	2.52	1.25	
Yes	176	2.41	1.24	

* $p \leq .05$, ** $p \leq .01$

prior criminal history or not (as indicated by those that selected “I have no prior arrests,” $n=40$).

We also evaluated the procedural justice scale in combination with participant demographic variables. A full summary of these results can be found in Appendix C. Significant differences were found only within the education and child custody variables. In evaluating the education of participants in our study and the procedural justice scale, we found that participants with higher levels of education had lower scores on the scale ($F(4, 207) = 2.79, p = .027$). A Tukey post-hoc test revealed that those with an Associate Degree education had significantly lower scores on the procedural justice scale compared to those with less than high school education. Those with less than high school education had the highest score on the scale ($M = 2.7, SD = 1.4$) compared to those with Associate Degrees ($M = 1.4, SD = 0.67$), College Degrees ($M = 1.89, SD = 0.95$), and Advanced Degrees ($M = 1.5, SD = 0.71$). This therefore indicates that individuals with higher education in our study may perceive the pretrial process as being unfair towards them. We also found that individuals with children had significantly lower scores than those without ($M = 2.19, SD = 1.15$ vs. $M = 2.61, SD = 1.28, t(215) = -2.57, p = .01$). Those individuals with children may therefore also believe the pretrial process is more unfair compared to those without.

Finally, two questions in the survey focused on participants’ perceptions of using money for release, and whether they believed that money encourages individuals to return to court and follow the law (see Table 3.13). While roughly 53 percent of participants agreed or strongly agreed that money bail encourages someone will return to court, the other 25 percent disagreed or strongly disagreed. Approximately 23 percent were not sure one way or the other. This indicates that more individuals in our study have the opinion that money can encourage someone to return to court, although this is not necessarily a universally held belief and research indicates otherwise (Walker, 2011).

In terms of whether participants believe that paying money for release encourages individuals to follow the law, we saw mixed results as well. More participants either agreed

Table 3.13: Opinions on Use of Money Bail

Statement	<i>n</i>	%
Paying money for release encourages individuals to come to court ^a		
Strongly disagree	41	18.7
Disagree	13	5.9
Neither agree/disagree	50	22.8
Agree	29	13.2
Strongly agree	86	39.3
Paying money for release encourages individuals to follow the law ^b		
Strongly disagree	53	24.5
Disagree	13	6.0
Neither agree/disagree	59	27.3
Agree	17	7.9
Strongly agree	74	34.3
^a <i>n</i> =219 ^b <i>n</i> =216		

or strongly agreed with this statement (42%) compared to those that disagreed or strongly disagreed (31%). Roughly 27 percent neither agreed nor disagreed. When comparing the two opinion statements, however, it appears that participants were slightly more likely to agree that paying money for release can encourage someone to return to court compared to following the law (52% vs. 42%).

Regression Analysis

For the final step in our analysis, two mixed-effects regression models were conducted in an effort to perform a more sophisticated analysis of whether a relationship exists between plans to pay bail and variables considered proxies of poverty or economic instability, net demographic and legal controls. Mixed-effects models were used to account for potential differences between the four jail facilities included in this study. These models included a random intercept for each jail facility. Ultimately, we were interested in evaluating whether potential poverty or economic instability impacts decisions to pay bail. A mixed-effects

regression model was also conducted to evaluate whether a relationship exists between perceptions of procedural justice and the same poverty proxy variables. Simply put, does poverty impact perceptions of procedural justice?

For our outcome measure of plans to pay bail, we only evaluated individuals who selected “plan to pay” or “plan not pay,” and did not include those that were “unsure” in the analysis. The procedural justice measure included scores on the procedural justice scale. For our independent variables, we were interested in evaluating whether unemployment prior to incarceration and transient living status impacted plans to pay bail and perceptions of pre-trial procedural justice. While these are arguably blunt measures of poverty, they represent some degree of economic instability for individuals in our study. Both unemployment and transient status were dichotomous measures (yes=1, no=0) in the regression models. For our control variables, we included pretrial or legal variables (prior criminal history, bond amount, jail time) and demographic variables (gender, age, race, education, children). For our prior criminal history measure, this was compared to those that indicated no prior arrest. Bond amount and jail time were measured based on the ordinal survey items measuring bail amount and days incarcerated (see Table 3.6). For the control variables, gender, race/ethnicity, education, and having children were all dichotomous measures or dummy-coded. The comparison group for gender was female, for race/ethnicity the comparison group was White, and for education the comparison group was some college and beyond. Age was a continuous measure.

An assessment of correlations between the independent variables was first conducted to determine whether there were any issues with multicollinearity (see Appendix D). An evaluation of the correlations reveal a moderate and significant relationships between jail time and bail amount ($r=0.35$, $p < 0.01$), and bail amount and having children ($r=0.24$, $p < 0.01$). We also see a moderate and positive correlation between being transient and being unemployed ($r=.22$, $p < 0.01$). A moderate and positive correlation was also seen between being White and transient ($r=0.21$, $p < 0.01$), as well as some high school education

and having a prior criminal record ($r=-0.20$, $p < 0.01$). However, there appeared to be no major issues of multicollinearity between our independent variables.

Table 3.14: Mixed-Effects Logistic Regression for Plans to Pay Bail^a ($n=171$)

Variable	Odds Ratio	95% CI		z	p
		Lower	Upper		
<i>Poverty proxy characteristics</i>					
Unemployed	0.77	0.32	1.83	-0.60	0.550
Transient	0.53	0.21	1.32	-1.35	0.176
<i>Pretrial/legal characteristics</i>					
Priors	1.10	0.43	2.83	0.19	0.846
Bail amount	1.09	0.87	1.37	0.77	0.439
Jail time**	0.66	0.48	0.89	-2.70	0.007
<i>Defendant characteristics</i>					
Male	1.82	0.77	4.32	1.36	0.173
Age	1.01	0.98	1.05	0.77	0.439
Race/Ethnicity					
African American	2.47	0.83	7.32	1.63	0.103
Hispanic	1.44	0.59	3.53	0.80	0.422
Other	0.79	0.13	4.82	-0.25	0.802
Education					
Less than HS	1.15	0.43	3.06	0.28	0.778
Some HS	0.83	0.36	1.94	-0.43	0.669
Has children	0.74	0.35	1.57	-0.78	0.435

^a 0=Do not plan to pay, 1=Plan to pay

* $p \leq .05$, ** $p \leq .01$, *** $p \leq .001$; $\chi^2(13)=15.83$, $p = 0.2583$;

Random effects parameter for facility: $\tau^2=0.771$, $p = 0.012$, $\chi^2(01)=5.10$

Table 3.14 presents the results of the mixed-effects logistic regression for plans to pay bail. Overall, the model was not statistically significant ($\chi^2(13) = 15.83$, $p = 0.258$). However, logistic regression analysis revealed that jail time significantly predicted likelihood of posting bail [OR=0.66 (95% CI: 0.55, 0.97), $p < 0.01$]. For every one unit increase in jail time, detained defendants were approximately 34 percent less likely to pay their bail. However, this result also potentially reflects that those not paying are incarcerated longer pretrial, and therefore more likely to be observed by us. In looking at our poverty proxy variables, we also see

meaningful results. Transient defendants were about half as likely to pay their bail compared to non-transient defendants. In addition, unemployed defendants were about 23 percent less likely to pay their bail compared to employed defendants. Another notable finding was that African American individuals were almost one and a half times more likely to pay their bail compared to White individuals. While the effects are not statistically significant, they are still worth noting and exploring in future research given the size of the observed effect.

The second regression model evaluated the procedural justice scale, using a mixed-effects OLS regression. It is important to note that a sensitivity analysis was conducted for analyzing the procedural justice scale. Due to the fact that an OLS regression is used to analyze interval scales or better, and the underlying procedural justice scale is made up of three ordinal likert items, we refit the model with an ordinal logistic regression to establish that the OLS regression was robust to this violation of its assumptions. We found that the results of the ordinal logistic regression were consistent with the OLS regression. As a result, we will therefore present the simpler OLS model for ease of interpretation.

Table 3.15 presents the results of the mixed-effects OLS regression for the pretrial procedural justice scale. This model was statistically significant ($\chi^2(13)=27.62, p \leq 0.01$). Bond amount, however, was the only statistically significant variable in this model ($B = -0.18, p < 0.001$). Every one unit increase in bond amount results in a decrease in the procedural justice scale by 0.18. In other words, higher bond amounts lead to worse perceptions of procedural justice. Being unemployed led to a small decrease in opinions of procedural justice compared to those that were employed, while conversely being transient led to a small increase compared to non-transients. Both variables, however, were not statistically significant. Ultimately, the poverty proxy variables of unemployment and transient living status did not explain plans to pay money bail or perceptions of procedural justice in both regression models.

Table 3.15: Mixed-Effects OLS Regression of Procedural Justice Scale ($n=171$)

Variable	B	95% CI		z	p
		Lower	Upper		
<i>Poverty proxy characteristics</i>					
Unemployed	-0.12	-0.52	0.27	-0.62	0.537
Transient	0.18	-0.23	0.60	0.85	0.394
<i>Pretrial/legal characteristics</i>					
Priors	-0.02	-0.48	0.44	-0.08	0.935
Bail amount***	-0.18	-0.29	-0.07	-3.30	0.001
Jail time	0.09	-0.05	0.24	1.27	0.205
<i>Defendant characteristics</i>					
Male	-0.17	-0.57	0.23	-0.81	0.416
Age	-0.00	-0.02	0.02	0.12	0.902
Race/Ethnicity					
African American	-0.25	-0.69	0.20	-1.10	0.272
Hispanic	-0.03	-0.46	0.41	-0.12	0.904
Other	0.27	-0.57	1.10	0.63	0.531
Education					
Less than HS	0.33	-0.15	0.82	1.35	0.147
Some HS	0.19	-0.22	0.60	0.90	0.366
Has children	-0.31	-0.67	0.05	-1.67	0.094

* $p \leq .05$, ** $p \leq .01$, *** $p \leq .001$;

$\chi^2(13)=27.62$, $p = 0.010$; Random-effects parameter for facility:

$\tau^2=0.02$, $p = 1.00$, $\chi^2(01)=0.00$

3.1.4 Discussion

This study is the first that we are aware of to survey pretrial incarcerated defendants on the reasons why they have not paid or will not pay their money bail. While anecdotal evidence and basic assumptions pertaining to why pretrial defendants remain incarcerated pretrial have led many to conclude that money is the motivating factor, this study aimed to provide empirical evidence as to whether this is indeed the case. This study also aimed to provide insights into important potential collateral consequences for incarcerated pretrial defendants, as well as perceptions of pretrial procedural justice.

The majority of participants in this study did in fact indicate that not being able to afford their money bail was a reason why they had not or will not post their bail (65%). While Cohen and Reaves (2007) provide important evidence based on administrative data that five out of six individuals had financial bails set that were not met, this study sheds light on the reasons why similarly situated individuals remained incarcerated pretrial. Our hypothesis that inability to pay will be the main reason why incarcerated defendants held pretrial do not post their money bail was therefore supported. Of those that indicated inability to pay was a reason, nearly half (47%) also had bails of less than \$5,000. Since the majority of individuals often use a bail bondsman to pay their money bail (as indicated by 86 percent of individuals planning to pay in this study), most of these individuals would potentially need to pay a willing bail bondsman \$500 or less to be released pretrial (representing the 10 percent amount generally required by bondsmen). Mixed-effects logistic regression analysis also revealed that transient individuals were half as likely to pay, and unemployed individuals were a little more than 20 percent less likely to pay their bail compared to their counterparts (i.e. non-transient, employed defendants). While this model was not statistically significant, these results are meaningful for theoretical and policy implications, and highlight the potential impact that money and poverty play in pretrial decision processes.

Some pretrial reform efforts encourage eliminating the money bail system altogether. Other reform efforts, however, are encouraging incorporating risk assessments in conjunction with a money bail system in an effort to reduce pretrial incarceration by reducing the number of low-risk individuals held in jail (Schnacke, 2014b). The jails included in this study also used a PRAI. While including risk assessments can be a positive development, ability to pay and issues related to poverty may not be adequately taken into consideration for pretrial defendants held in these jails, and potentially others. Risk assessments do not make recommendations for money bail amounts, but rather assess risk of flight or future crimes upon pretrial release. And some opponents of incorporating PRAIs raise concerns that these tools will lead to a presumption of detention as opposed to release (Alexander, 2018). Further understanding of the impact of PRAIs on poverty and the money bail system

should therefore be explored. In addition, the affordability of money bail more generally will be an important area of pretrial research and reform efforts. Future research should therefore aim to better understand money bail affordability. For those individuals that are not able to afford their bail, research could explore what amount of money these individuals would be able to pay. While this may not be conducive to reform efforts wanting to eliminate money bail, it could be insightful for jurisdictions that are not able to eliminate money bail altogether.

While a strong majority of study participants indicated that inability to pay was a reason they did not or will not pay, nearly 35 percent of study participants did not. This study therefore uncovered other potentially important and complex reasons why incarcerated defendants do not pay, including lack of family support for posting (e.g. wanting individual to be in jail) or family advice against posting, legal reasons keeping them incarcerated (e.g. legal complications in other jurisdictions, sentenced on another case, immigration issues), not wanting to post, wanting to get time served, and issues related to homelessness, not having an address to provide pretrial services, or difficulty finding a co-signer. Future research should therefore continue to explore these additional reasons keeping pretrial defendants with money bail in jail.

In particular, we were not able to fully explore why individuals “did not want to” pay their bail. It is possible that some of these individuals “did not want to” pay because they planned to plead guilty, or felt coerced to do so. Research has shown that those held pretrial are more likely to plead guilty (Dobbie et al., 2018; Stevenson, 2018; M. Sacks & Ackerman, 2012, 2014). Investigating the impact of pretrial incarceration on plea deals and understanding defendants motivations should be further explored. In addition, incorporating administrative data along with survey data could also help us better understand the reasons why certain individuals remain incarcerated pretrial. In other words, it is possible that legal complications could keep individuals that cannot afford their bail amounts incarcerated pretrial. As a result, affordable bails many still not guarantee release. This survey highlights

the possibility that there may be more complex reasons than meets the eye in terms of why some people do not pay their bail.

This study also provided important information on potential collateral consequences of detained pretrial defendants. Surprisingly little research has been conducted on the short-term consequences of pretrial incarcerated defendants. Although Holsinger's (2016) study on self-reported outcomes related to collateral consequences provides important insights on the impact that even short-term incarceration may have on pretrial defendants, his focus was on individuals that had been released pretrial. As hypothesized, we found that detained defendants do in fact face a number of potentially serious collateral consequences as a result of their pretrial detention. The vast majority (84%) of detained defendants with jobs prior to incarceration believed that their incarceration would negatively impact their employment. This is consistent with prior research conducted by Dobbie et al. (2018) that found that pretrial detention decreases formal sector employment and lowers potential for future employment as a result of a criminal record. In addition, more than half (61%) of participants believed their living situation would change after incarceration or were uncertain at the time.

Focusing in particular on the impact of pretrial incarceration on children, we found that many children may have their lives seriously disrupted as a result of their parent's incarceration. Of those with children, a little more than half believed their children's living situation would change or were not sure. This may lead to a number of both short-term and long-term consequences for these children. Vigne, Davies, and Brazzell (2008) note incarceration affects children in terms of changes to their daily lives and living arrangements, affects the parent-child relationship, impacts the financial circumstances of the family, and may lead to a number of emotional and behavioral issues in children as a result of these stressors. Although detained participants' concerns about these potential collateral consequences were not certain to take place (i.e. may not happen), their responses still provide useful information on their perceptions of these issues and the potential challenges they, their families and

children may face. Longitudinal research on this topic would be helpful to better understand both the perceived and actual impact of pretrial incarceration on collateral consequences.

The final contribution of this study was the exploration of procedural justice, or fairness more generally, within the pretrial process. Key principles of procedural justice include the belief that fair treatment will contribute to compliance with the law. Research on this topic has shown that people are more likely to comply with the law, and accept the outcome of their case, when they perceive higher levels of procedural justice (Tyler, 2006; Tyler & Huo, 2002). Researchers Irwin-Rogers and Shuter (2017) evaluated concepts of procedural justice within the bail setting stage within England and Wales, and found that defendants believed bail decisions were often arbitrary and that stakeholders worked together to undermine defendant's rights to a fair and impartial trial process.

Procedural justice is an area, however, that has not been fully examined in relation to the pretrial process of the criminal justice system in the United States, which is considerably different with the additional element of money bail. Based on the results of our regression analysis, we found in support of our hypothesis that higher bail amounts lead to slightly lower levels of perceptions of procedural justice, net other legal, poverty proxy, and defendant characteristics. Although this is not an entirely surprising finding, it does indicate that pretrial detained individuals believe paying more money for release to be unfair. Our poverty proxy variables, however, were less meaningful in this model, but it is clear that money and perceptions of fairness appear to impact one another. Research evaluating pretrial processes and outcomes as they relate to procedural justice should be explored in greater detail than provided by this study. In addition, research further exploring concepts of fairness and refining our procedural justice scale within the pretrial stage is encouraged.

Ultimately, asking pretrial incarcerated defendants directly about their perceptions and motivations is important to the current pretrial justice landscape for several reasons. It is important that we hear from these individuals directly so that we may have a better understanding of their decision-making processes. While magistrates and judges make important pretrial decisions that affect defendants, it is also important to understand what

decisions defendants offered money bail make. It is also important to hear from the pretrial population offered money bail as they are the individuals being affected by pretrial policies and reform efforts underway. For example, it is possible that eliminating money bail may not help a certain subset of incarcerated defendants that may be held as a result of legal complications, or due to factors related to homelessness (e.g. no fixed address) or economic instability. Reform efforts would therefore have to evaluate different avenues to address these individuals that may not benefit from the elimination of money bail, or the inclusion of PRAIs. Having a better understanding of the needs of these individuals is an important contribution to the pretrial literature.

Limitations

There were a number of limitations to this study that warrant further discussion. In terms of site selection, one of the jails included was not able to provide a list of eligible participants (i.e. those held on money bail). As a result, participants were asked to indicate whether they were eligible following a verbal explanation of our requirements. We were therefore not able to verify if these individuals were in fact eligible or not. Another major difference between sites was that one jail had significantly fewer individuals held on money bail compared to the others (although this was the smallest jail included in the study). Analyzing the data in aggregate, however, helps to minimize any potential differences experienced between jail facilities. In addition, all of the jails included in this study use a PRAI, which makes them unique in part due to the fact that the majority of people in the U.S. do not live in jurisdictions using a PRAI (Pretrial Justice Institute, 2017b). However, evaluating these jails is meaningful as reform efforts encourage risk assessments during the “third wave” of pretrial reform. This allows us to have a better sense of perceptions of pretrial defendants in jails that are currently using PRAIs.

Other limitations of this study include issues with both the survey itself and the realities of self-reported data. While the aim of this study was to learn directly from participants themselves their perceptions and experiences firsthand, there is always the possibility that

some facts may not be perfectly represented. Notably, we were not able to verify if bond amounts and jail times were indeed accurate. Since many individuals use bail bondsmen, it is possible that some may believe that their bail amount is the roughly 10 percent amount required, a question that a few individuals asked us when filling out the survey. Linking participant responses with administrative data could help fill potential gaps participants may be unaware of (e.g. exact bail amounts, exact length of incarceration) or flag inconsistencies provided by respondents. In addition, a more comprehensive analysis including administrative data and risk assessment information could help provide a more holistic picture of potential constraints that may keep pretrial defendants detained (e.g. warrants in other jurisdictions, immigration holds, etc.), irrespective of financial constraints.

In terms of the survey tool itself, one issue that began to arise was with the question “reason bail not/will not be paid.” Although the survey tool was piloted, a more in-depth discussion around reasons would have been useful. While we knew our list was not exhaustive and therefore provided the “other” category, we were surprised by how many individuals selected this option. Given the additional responses we discovered by analyzing the “other” write-in text, future research should continue to explore the reasons individuals do not pay including these additional options. Another limitation of our tool was that we did not measure income. Although measuring income may be challenging (e.g. gaining meaningful data on legal and illegal income), obtaining information on this would have been useful for a more inclusive evaluation of poverty and economic instability. While these potential limitations are important to note, they do not detract from the findings presented here based on the perceptions these individual’s had about the process and their experiences.

3.2 Study 2 - Qualitative Interviews

3.2.1 Overview

Study 2 was a qualitative companion to Study 1. Qualitative interviews with pretrial incarcerated defendants held on money bail were conducted in the same four jail facilities as

the survey study over a two-month period (March to May, 2016). The inclusion criteria for participants was the same for the interview portion of the study as the survey portion, and included only those individuals that were held on a money bail and had been incarcerated for 48 hours or more.

The purpose of these interviews was to better understand incarcerated defendants' perceptions and experiences with the pretrial process beyond the survey tool. In particular, the researchers attempted to better understand the reasons and motivations behind why defendants had not paid their money bail, how this had impacted their lives, and their perceptions of procedural justice within the pretrial process.

A total of 30 semi-structured interviews were completed. These interviews provided unique insights into the factors and reasons (notably money and financial resources) that may play a role in keeping certain individuals incarcerated pretrial. However, they also provided additional reasons and motivations beyond financial challenges that help paint a more complex and nuanced picture of the perceptions of pretrial incarcerated defendants. A number of collateral consequences were emphasized as well. Finally, perceptions of procedural justice were explored that highlight what fairness in the pretrial process looks like according to these pretrial defendants.

3.2.2 Methods

Sample

The sample for the qualitative component of this study included incarcerated defendants held on money bail located in four jail facilities within three different states. As with the survey, participants needed to be held pretrial on a money bail. There was no limit to the dollar amount. They also needed to be incarcerated for a minimum of 48 hours. These individuals were interviewed on topics similar to the survey study, with the main focus being perceptions and experiences with the pretrial process.

Interview Question Guide

The purpose of the qualitative interviews was to further explore in more detail and depth topics examined in the survey. Topics included better understanding incarcerated defendants' perceptions and experiences with the pretrial process and money bail, the reasons and motivations behind why defendants had not paid their bail, whether money was a factor behind this decision, and how this had impacted their lives and/or their families' lives. A semi-structured interview guide was developed based on the survey questions from Study 1, and contained roughly 20 questions depending on how respondents answered previous questions (see Appendix E). The interview guide was not read verbatim and the interviewer could address the topics in the order that made sense given the flow of the conversation (Patton, 1990). Two researchers conducted the interviews, which lasted on average 15 minutes, and one interview was conducted in Spanish by an undergraduate research assistant, which was then translated into English. All interviews were audio recorded.

Data Collection

Data collection for Study 2 led directly from responses to the survey in Study 1. For Study 1, incarcerated pretrial defendants held on a money bail were eligible to complete a paper-and-pencil survey. Of those that completed the survey, a final question asked if participants would be willing to conduct an in-person interview to further elaborate on questions addressed in the survey. Based on those that selected "yes" to this question, willing participants were randomly chosen to complete an interview. Verbal consent was provided prior to each interview (see Appendix B).

In Jail 1 and 3, interviews were conducted on separate days from when the surveys were completed. Interviews took place roughly three weeks following the completion of the survey. A list of inmate IDs was sent to a jail administrator prior to the researchers' arrival so staff could make arrangements for interviews. The jail staff also updated the researcher as to whether the defendant was still in their custody or had already been sentenced. In both jails, interviews were conducted in private rooms. Participants were randomly selected and

individually brought to the room by staff. Participants were then asked whether they were willing to conduct the interview again, informed consent was obtained, and the interview was completed and audio recorded. One limitation of the approach taken at Jail 1 and 3 was that several individuals were no longer available to participate as their case had been closed (i.e. sentenced, released), or they had been transferred to another facility. Only one individual declined to be interviewed in Jail 1.

In Jail 2 and Jail 4, interviews were conducted on the same day the survey was conducted, and generally shortly after the participant had completed the survey. This was due to travel limitations and time restrictions on the part of the researchers for visiting these facilities. In these jails, participants completed the survey first. The researchers then randomly selected individuals that had noted they were willing to complete an interview. In Jail 2, interviews were conducted privately between the researcher and the interviewee at tables within a dormitory setting or in a separate private room, depending on the logistics of the housing unit. In Jail 4, interviews were conducted immediately following the completion of the survey, and were conducted in private attorney rooms. Ultimately, interviews were conducted in a variety of housing units, and with both males and females.

Analysis

Audio recorded interviews were transcribed by professional transcribers. The transcripts were read through and checked against the audio recordings to ensure accurate transcription, and were then imported into the qualitative software program Atlas.ti. Analysis followed Miles and Huberman's (1984) four process of qualitative data analysis. This includes data collection, data reduction, data display, and conclusion drawing and verification. Ultimately, data reduction, data display, and conclusion drawing and verification make up what Miles and Huberman (1984) refer to as the three streams of data analysis, and may occur before, during, and after data collection. Data analysis was therefore a cyclical and interactive process. Analysis also followed an iterative process, whereby data were visited and revisited,

ultimately leading to emerging insights, themes, concepts, and understandings (Srivastava & Hopwood, 2009).

For the first stream of data analysis, data reduction included the process of creating summaries, coding, categorizing, creating themes, and writing memos (Miles & Huberman, 1984). Data reduction can occur during and after data collection is complete. For the data reduction analysis portion of this study, transcripts were coded using thematic codes. Thematic codes were established both inductively and deductively. With inductive analysis, patterns, themes and categories emerge from the data after analysis occurs, as opposed to prior to data collection and analysis (Patton, 1990). Generally, these patterns may emerge through the descriptions or words articulated by the participants themselves or as the researcher becomes aware of categories or patterns that the participants do not label themselves (Patton, 1990). Deductive analysis, on the other hand, includes categories, codes or themes that are established prior to data analysis. Using both approaches provided for a comprehensive evaluation of the interview data.

For the data reduction component of this study, a list of deductive codes were first created based on the questionnaire protocol, as well as anticipated themes and responses following the interviews. Examples of deductive codes included themes we anticipated finding, including inability to afford bail (both self or family), and collateral consequences including job loss and housing challenges. Using these codes, a first round of coding was conducted. This involved listening to all audio recordings while simultaneously coding text in Atlas.ti. During this process, inductive codes that emerged were added to the previously established list of codes and coding proceeded. Examples of inductive codes that emerged during the coding process included themes surrounding difficulty contacting people, addiction problems, lack of family support or network, innocence, and punishment. Memos were also created after listening and reading through each interview to briefly capture initial reactions and thoughts of that particular interview. For example, a memo was created for interviewee 1 that addressed the main objectives of the interviews. In this memo, a note mentioned the main reason that emerged for not paying (e.g. he cannot afford it), aspects of collateral

consequences (e.g. he anticipates losing job), as well as perceptions of procedural justice (e.g. he believed money bail amount was not affordable). A second round of coding all text was then conducted so that any newly developed codes could be applied. A spreadsheet was also used to help keep track of the emerging themes that developed for each interviewee. Additional information was added to the memos throughout this process and helped build the analysis of this study. This process ultimately led to the development of categories and themes that will be presented in the following section.

The analysis process of data display included the assembly of information that permits conclusion drawing (Miles & Huberman, 1984). In qualitative analysis, this is done through the use of narrative text, potentially using matrices, graphs, or charts. Narratives and quotes that highlight themes and patterns were assembled to help with this stage of data analysis, conclusion drawing, and verification. In Atlas.ti, quotes that were highlighted from the text can be viewed within the theme of interest. For example, within the category of collateral consequences, 42 quotes were highlighted that discussed the theme of children and guardianship issues. These quotes were analyzed to help develop an understanding of this theme.

In the conclusion section, the main objective was to establish meaning from our previous step of data display. In this final step, causes, consequences, and relationships were interpreted and identified as they related to our research objectives for this study. Specific quotes that highlighted or exemplified these objectives were identified, and will be presented below.

3.2.3 Results

Descriptive Statistics

A total of 30 individuals participated from the four jail facilities (see Table 3.16). Interviews from each jail facility accounted for a total of 10 hours and 33 minutes. The largest number of interviews came from Jail 3 ($n=10$), followed by Jail 4 ($n=9$), Jail 1 ($n=7$), and Jail 2

($n=4$). As a result, nearly four hours worth of interviews came from Jail 3. A total of 25 participants were male.

Table 3.16: Study 2 Facility and Interview Time Demographics

Jail Facility	State	Participants	Percent	Interview Time
Jail 1	Mid-Atlantic State A	7	23.3	2 hours 46 minutes
Jail 2	Mid-Atlantic State A	4	13.3	1 hour 46 minutes
Jail 3	Mid-Atlantic State B	10	33.3	3 hours 57 minutes
Jail 4	Mountain West State	9	30.0	2 hours 32 minutes
Total		30	100	10 hours 33 minutes

Ultimately, a total of 100 codes were created throughout the analysis process, and were grouped into 21 groups or sub-categories to help organize the analysis process. Results will be presented based on the objectives of this study, including money bail perceptions and motivations, collateral consequences, and procedural justice.

Money Bail Perceptions and Motivations

First, we collected some basic pretrial process information on the defendants in terms of their bail amounts and length of time incarcerated. Bail amounts for defendants included in this study ranged from \$500 to \$100,000. A total of 15 participants had bail amounts of less than \$5,000, with seven of these individuals having amounts of less than \$2,000. Eight individuals had bail amounts above \$19,000. Length of time incarcerated for study participants ranged from two days to six months. The most common length of time indicated ranged from one to three months ($n=16$). Five individuals had been incarcerated for less than a month. The vast majority of participants indicated that they did not plan to pay their bail ($n=25$), while three indicated they planned to pay, and two were not sure at the time.

We asked all interviewees why they had not yet posted their money bail. In analyzing these responses, motivations for not paying were first classified by a primary reason and additional reasons within these groupings were then explored. We found that the primary

reason indicated by the vast majority of participants were financial reason ($n=24$), followed by legal reasons ($n=4$), and not wanting to ($n=2$). A number of additional reasons outside these main categories were also highlighted. These reasons will be explored below.

Financial reasons

A total of 24 interviewees indicated they had not paid their bail for a financially-motivated reason. These reasons were explored in greater detail and a number of themes emerged, which were then classified into six categories. Figure 3.1 illustrates these categories. A total of 21 individuals indicated that either they could not afford their bail themselves, or their family or friends could not. These two categories were evaluated independently, however, but made up the most common reasons indicated by study participants. It is important to note that these categories are not necessarily mutually exclusive. In other words, one individual may have noted that they could not afford their bail and that they could not connect with anyone. Another individual may have indicated only a single reason. Each financial category is presented below.

I can't afford it The most common reason indicated by 17 of the 24 participants was that they could not afford their bail. These reasons did not necessarily allude to others inability to pay, but often their own personal financial situation in relation to their bail, or that they simply could not afford it. Bail amounts for this group had a considerable range, from the lowest amount indicated of \$500 to the highest amount indicated for this group reaching \$100,000. Several highlighted quotes showcase these reasons:

“If I had money, I would’ve paid, you see? . . . If I had money, I would pay. But seeing I don’t have money, that’s why.”

-Interviewee 15 (\$1,000 bond, incarcerated 4 months)

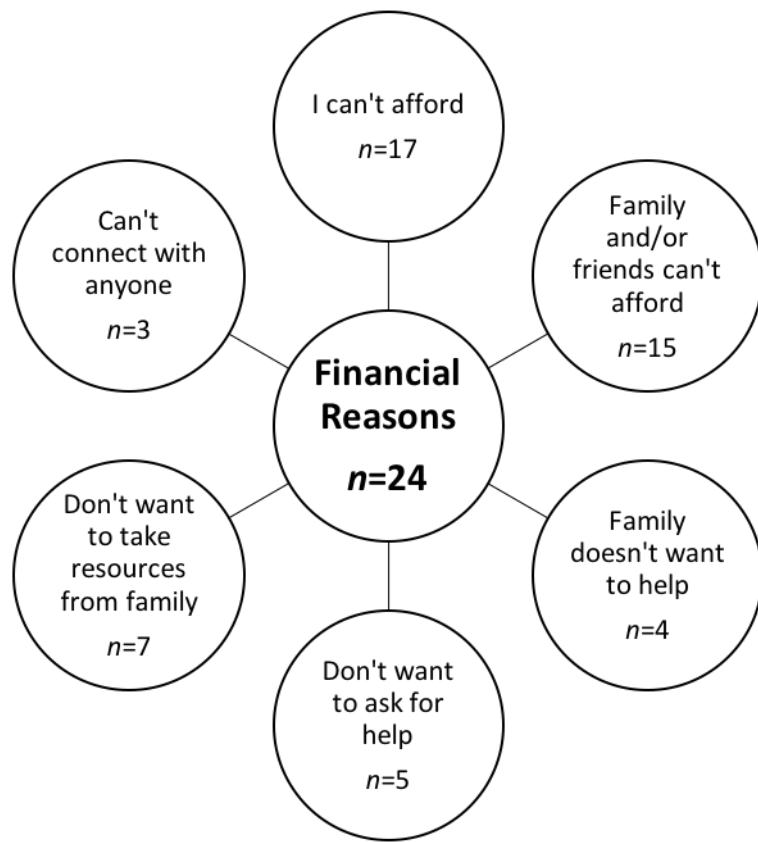


Figure 3.1: Financial Reasons Bail Not Paid

“Well, one of the major reasons is that I don’t have the money, on a personal basis...It just comes down to me not having the physical means, the financial means to post.”

-Interviewee 28 (\$10,000 bond, incarcerated 1 1/2 months)

“I have family, a household and I couldn’t even afford the bond myself because I didn’t have money saved up.”

-Interviewee 3 (\$10,000 bond, incarcerated 1 month)

“I mean, at one point in time, I was considering paying it, but that was before I got my second bond. At that point, when my bond had more than doubled, it put me in a position where I won’t be able to afford it.”

-Interviewee 27 (\$80,000 bond, incarcerated 1 1/2 months)

Ultimately, these responses were fairly straightforward in their reason for not paying. These individuals indicated or insinuated that they did not have the financial means to pay for their bail, and indicated this was the reason they were still incarcerated.

Family and/or friends can’t afford it Many interviewees also indicated that their families and/or friends could not afford the money bail. A total of 15 out of the 24 individuals indicated this as one of the reasons they had not paid. For this category, it was not necessarily that their family was not willing to help, but that they did not have the means to do so. Bail amounts also had a large range for this group, ranging from \$1,000 to \$100,000. A few selected quotes highlight this category:

“My mom’s actually just started back working after like, I’ll say, a couple weeks to a month ago. She’s been trying to get me out, but like she said, she won’t get her next check until, like, she got the next one.”

-Interviewee 2 (\$2,000 bond, incarcerated 2 months)

“That’s hard, because it’s really frustrating being in here, and then my family—it’s frustrating to them, because they wanna help me and they can’t, so we’re both struggling. It sucks.”

-Interviewee 5 (\$2,500 bond, incarcerated 1 1/2 months)

“Yeah, but my mom, she has my daughter, she’s struggling with my sister. She’s a teacher, but in the same breath, she’s young. She’s just starting out, so she really can’t afford it. They do what they can as far as every now and then putting a couple of dollars on the commissary, but it’d be no more than 20 dollars here or 20 dollars there, so no one has thousands of dollars sitting around ready to post. If someone had it, even if someone had a few hundred dollars, they would be lenient about posting it because they don’t know the full extent of how the whole court thing works out. Money is tight. Times are harder and way more expensive—times of living.”

-Interviewee 21 (\$50,000 bond, incarcerated 6 months)

Similar to the previous “I can’t afford it” category, these reasons were also fairly direct in indicating that their family or friends could not afford to pay for the bail. The quotes in this category also begin to highlight the challenges posed to families in the pretrial process, an area that will be explored further in the collateral consequences section of this study.

Resources for family A total of seven study participants indicated that they did not want to take money and/or resources away from their family. Three individuals in this category did not outright state that they could not afford their bond or that their family could not afford to pay, but indicated that their family needed or could use the money for other things. For these individuals, it therefore appeared that they and their families did not have the additional financial means to be able to afford their bail. Money bail amounts for participants in this category ranged from \$1,750 to \$19,000. Selected quotes highlighting this category are presented below.

“I could if I wanted to. I work and stuff. I just don’t wanna pay money to do this. In case my mom or somebody might need it while I’m in here.”

-Interviewee 7 (\$2,500 bond, incarcerated 3 weeks)

“The reason I’m not going to post the bond is because regardless, it’s still going to cost me close to \$1,500.00. I mean I could shake the tree and make my family hustle that up, or even find a way to get that money, but really, that money takes away from everything else. I’m in a—well, not exactly completely unable to get the money, but I mean at the same time, it’s a burden. You know what I mean? It’s a burden to my family. It’s a burden to my mother and my children. You know what I mean? I’m not married any longer, but I mean it would still be a burden to my children. They would have to pitch in. Each person works just a regular job. They would have to pitch in, each person, and get that money up. Of course, that money isn’t reimbursed to a person. You know, that money is just for the bondsman to put up the real money.”

-Interviewee 8 (\$10,000 bond, incarcerated 1 month 3 weeks)

The responses for this category begin to highlight the calculations and decision-making processes that pretrial defendants held on money bail must often make. Again, although three interviewees did not outright indicate that they or their families/friends could not afford the bail, they perceived that their family did not necessarily have the financial capital to endure the potential setback of paying, and that the money could ultimately be better used elsewhere. Others within this category outright indicated that they did not want to pay because their family could use the additional resources.

Do not want to ask or bother family Another category that emerged within the financial reasons group was not wanting to ask or bother family for help. Five pretrial defendants indicated this reason. All five within this group also indicated that they could not afford, their family could not afford, or they did not want to take resources from their family to pay their bail. Four of these individuals in this category had bail amounts under \$5,000 and one individual had a bail of \$51,000. Below are selected quotes showcasing this category.

“I just didn’t wanna initially to do that because I’m not that kind of person...unless I have that money to cover it, I won’t ask. Basically, I didn’t have—I don’t have a lot. I’m not employed at this time, so I don’t have the money to afford to get it myself. I’ll just do the jail time and whatever.”

-Interviewee 10 (\$1,000 bond, incarcerated 6 days)

“I don’t like to bother my family too much. They got their own things that they’re doing...I know they got their whole life. They’re up there in age. I’m not too young myself. I’m still young enough to fend for myself...I’m a man. That’s what a man does, is fend for himself...I’m not from a rich family. I don’t even wanna bother them. Their money’s their money.”

-Interviewee 29 (\$5,000 bond, incarcerated 3 and a half months)

Interviewee: Yeah, but because it was two different bonds, I didn’t—I would’ve been able to pay one, but I wouldn’t be able to pay both.

Interviewer: Yeah. You didn’t reach out and ask anyone else?

Interviewee: Hm-mmm.

Interviewer: - for help? Okay. Was there any reason why you didn’t?

Interviewee: Because it was too much.”

-Interviewee 22, (\$51,000 bond, incarcerated 2 months)

The responses in this category highlight some of the different reasons why individuals did not ask. These reasons included personal beliefs against asking for money, not wanting to interfere with their family, the belief that other’s money is not theirs, and the belief that the bail amount is too much to bother asking.

Family does not want to help A total of four interviewees indicated that their family did not want to help them out, for a number of reasons. While some individuals noted they could not afford their bail, they did not necessarily indicate that their families could not afford it. Others indicated that both they and their families could not afford the

amount, but had the additional opinion that their family did not want to help out. Three bail amounts for individuals in this group were \$2,500 and under, and one was \$10,000. Select quotes highlighting this category are presented below.

“Like I said, the first person I called is my brother. He pretty much told me, ‘No, you need to experience it.’ I called my cousin, she was like, ‘I just had a baby. I can’t do it.’ I’m saying, ‘I’d do the same thing for you if you were in this situation,’ and ‘Everything I’ve done for you,’ trying to throw the guilt trip in there. Every one of my family members that I’ve talked to is, ‘This is your first time. You need to experience it. You need to stay in there.’ I think it’s just depending on who you are and what you show your family. I don’t think money’s the issue. It’s just the relationship that you have with those people.”

-Interviewee 14 (\$2,500 bond, incarcerated 2 and a half months)

“I have two relatives, cousins, in the area. During the vagaries and vicissitudes of my drinking and drugging—I am addicted to alcohol, and I’ve got an addiction problem, which is a perennial issue. Due to the vagaries and vicissitudes of my addiction, I’ve burnt bridges, and I have found it very hard to go back and ask for help. That’s the best way I can encapsulate why I can’t even go to seek help from my immediate family.”

- Interviewee 28 (\$10,000 bond, incarcerated 1 and a half months)

These quotes suggest that while money may be a motivating factor keeping defendants incarcerated, both due to their personal inability to pay or their families, relationships with individuals may also account for why some individuals remain incarcerated pretrial. Based on responses within this category, we see that alcohol and/or drug abuse may lead to strained relationships, discouraging family members from helping bail individuals out. It is also possible, as emphasized by Interviewee 14, that family members believe incarceration will benefit the defendant. This category highlights the reality that relationships, in addition to money, also have an impact for some individuals held pretrial.

Challenges contacting anyone A final category for the financial reasons group was difficulty contacting individuals to help post bail, as noted by three interviewees. These individuals indicated that this was potentially one of the reasons they remained incarcerated pretrial. All interviewees that stated this as a reason had low bail amounts (\$2,500 and below). Selected quotes are highlighted below.

“Oh, although I [have] no family here, but I have only friend. I tried to call friend, nobody pick ups the phone, so that’s why I just here.”

-Interviewee 9 (\$500 bond, incarcerated 2 days)

“I can’t get, I’m not from this state. I can’t get a hold of nobody...I can’t get a hold of my family or nobody.”

-Interviewee 12 (\$2,500 bond, incarcerated 9 days)

“Now, in the situation where I’m in, one of the reasons where I feel as though that I’m not pretty much out on the streets right now, it’s because I haven’t been able to use the telephone over about a week or so, because they lost my property, and this man is giving me another number where I can make some sort of community contact towards someone on the outside or using the phone system.”

-Interviewee 1 (\$2,500 bond, incarcerated 8-14 days)

This category highlights a potential challenge for some individuals held pretrial. These individuals emphasized difficulty in connecting with someone to help pay their bail, or difficulty in accessing the telephone to communicate with individuals that may be able to help pay their bail. One interviewee also indicated the potential hurdle of not being from the area, which can also pose an additional challenge. Two of these individuals indicated that they themselves could not afford their bail, but did not necessarily indicate their families could not. The other individual, Interviewee 1, seemed to indicate that he was hoping to connect with pretrial services to be released on recognizance, but was having difficulty doing

so. Connecting or communicating with individuals outside of jail could therefore potentially play a role in helping these individuals pay their bail or get released pretrial.

Legal reasons

A total of four individuals within our group of 30 interviewees indicated that the main reason that had not, or will not, pay their bail is due to legal reasons. Two of these individuals had bail amounts of \$5,000 and \$6,000, and the other two had amounts of \$40,000 and \$50,000. Getting time served, based on the expectation that they would be taking a guilty plea, was the main reason indicated for three individuals. The fourth person had been sentenced on another charge, although they had a money bail for the jurisdiction they were being held in. These two reasons will be explored below.

Getting time served In further exploring the legal reasons, three individuals indicated that they wanted to get time served. These individuals indicated they were planning on pleading guilty, and were waiting to figure out how much time they would serve based on their guilty plea. Selected quotes highlighting this theme are presented below.

“I’m waiting on the—I’m basically waiting on a prosecutor to come out with a better deal. I gotta bond, but I’m waiting. I basically wanna wait to get time served, so yeah. It’s basically if I post bond they’re going to have time over the shelf, over my head. If I don’t post bond, then I get time served. I’d rather not post bond and be completely done with the [*state name omitted*] thing and move on with my life.”

-Interviewee 18 (\$5,000, incarcerated 4 months)

“For me, I have kids and I know I’m gonna do time. I’d just rather stay and start serving my time than go back and get involved in their life again and then have to leave again... I know I’m gonna do time, so I might as well just get it started.”

-Interviewee 17 (\$6,000 bond, incarcerated 1 1/2 months)

“We know I’ll probably get some kind of time. Instead of maybe missing most of the summer, depending on what they give me, so stay here now, cuz my attorney’s rushing all my court dates—get me in as quick as possible. . . My attorney’s thinking that the judge will go somewhere mid, maybe lower. So it will still be like a year. But if I get. . . if they can get that, then maybe after Tuesday I might get a bond until I’m sentenced. We’re thinking about maybe doing bond if I do—looking at over a year, whatever.”

-Interviewee 4 (\$40,000 bond, incarcerated 1 1/2 months)

These quotes highlight the legal decisions some individuals make when choosing not to pay their bail. These three individuals “knew” they were going to serve time, and some were waiting to figure out their plea deal. For them, they felt it was more logical to start serving their time as opposed to posting their bail.

We see with each of these three individuals, however, that they had already been incarcerated for between a month and four months. It is possible that earlier in their pretrial process these individuals had different perceptions of posting their bail, but as time passed began to see the value in accruing time. However, at the time when these interviews were conducted, the main reason these individuals indicated not paying was due to legally motivated reasons.

Already sentenced Although this was relevant for only one individual in our sample, it is still worth highlighting that one interviewee noted the main reason he had not paid his bail was because he was already sentenced on another charge. As a result, it did not make sense to pay. This individual had not been sentenced at the time he completed the survey, but when we returned to conduct the interview he noted that he had just been sentenced to 10 years on another case, although he was still being held in the current jurisdiction on a bail for a separate case.

“Interviewer: The reason why you aren’t posting your bond. . .

Interviewee: Because I’m already sentenced, so it wouldn’t help me. I have the money. I could get out for \$1,500 on a \$50,000 bond. Got to realize a bond was only signing a promissory note to get us out. I can get the \$1,500 and arrange a payment plan with just the money I have in here. Which would be adding up to \$50,000. You have different types of bondsmen. You have one percent bondsman, five percent, you know, ten percent. There’s different percentages.”

-Interviewee 25 (\$50,000 bond, incarcerated 2 months)

This interviewee highlights that he could afford his bail by paying a low percentage to a bail bondsmen. However, given he is already sentenced he indicated that it would not help him to get released. This case also highlights the challenge of legally complicated cases in terms of understanding the pretrial process and posting bail.

Additional legal reasons Several of the 24 individuals that indicated a financial reason as the main reason they had not posted their bail also indicated a legal reason as a motivator as well. As previously mentioned in the financial reasons section, these categories were not necessarily mutually exclusive, and individuals could have indicated more than one reason motivating them to not pay. While we classified the 24 individuals as indicating a financial reason was the main reason for not posting, 10 of these individuals also indicated a legal reason.

As seen by the main legal reason indicated by three study participants, we found that four additional individuals indicated that they were planning to plead guilty and/or wanted to get time served. As one individual noted,

“When you first come in, it’s the worst thing in the world to get adjusted to it. I’m just adjusted to it right now, and I know I’m gonna have to do at least 30 to 60 days. I might as well start doing my time now.”

-Interviewee 12 (\$2,500 bond, incarcerated 9 days)

In a similar vein, two individuals indicated that they were planning to take advantage of programs in jail in an effort to get a reduced sentence. Here is an example of one individual thinking through this logic.

“Right before I went for court, of course you have a lot of jailhouse lawyers in here, you know, and they’ll let you know how it works for them. They’re like, ‘Well, if you go and you go to these programs, when you go to actually go to court, you might get a sentence reduction.’ I’m going there and I’m like, well, I have—it’s the two options. I can leave, not have any kind of available programs to give me a sentence reduction. Of course, you’d rather be home. Or I can stay here, suffer through it, go through the programs, get the sentence reduction, and maybe, in the long run, win out a little bit better. You know what I mean?”

-Interviewee 8 (\$10,000 bond, incarcerated 1 month, 3 weeks)

Three individuals indicated that they had bonds or legal cases pending in another jurisdiction, which may cause challenges in terms of posting the bail they are currently being held on. This is best exemplified by one individual’s situation, highlighted here.

“I had posted bond in [county 1], which was \$6,000. I was out for one day, and [county 2] posted—set out four warrants for my arrest, so my bond is now set there for \$10,000 because [county 1] did not inform [county 2] that I was here, and so my bond was revoked, and now it jumped and it doubled to \$10,000. My family was on—my grandfather is on a pension, and came together to get that \$600 to post my bond in the last county. Now it jumped to \$10,000, and I’m being held here on a \$3,000 bail. If they would have just done their part as the governing county and told them that I was here, I probably would have been out by next Tuesday, but now I have to transfer to a different county and ask for a bond reduction, and tell them that I was here in [county 2], and that’s the reason I couldn’t go to court because I was here. Now, my bond is now doubled when it took my grandparents about four weeks just to come up with the \$600 because they are on a pension. There’s no way that they could make a \$10,000 bail when they still have bills and whatnot to take care of.”

-Interviewee 11 (\$3,000 bail, incarcerated 2 months)

A final legal reason that emerged was expressed by one individual that noted their attorney personally advised them against paying, due to the perception they would not do well on pretrial release.

“My attorney, it was on advisement not to post bond. Because I have, me personally, I have a drug problem, so he didn’t want me to get out, fail a drug test, because if you do get on bond you need to do a pretrial. Pretrial you get drug tests and do all that, and he didn’t want me to go out there and use again and mess that up, which could screw my whole court date over again.”

-Interviewee 26 (\$10,000 bond, incarcerated 4 months)

These legal reasons, as expressed by individuals that indicated a financial reason as the main reason they had not or will not post their bail, are important in helping to better showcase the motivations and thought processes behind why some individuals do not pay.

These reasons also highlight a possible chain of events or reactions that may lead some individuals to rationalize pleading guilty, doing programming, getting time served, or other legal motivations as a result of their financial reasons, or inability to pay. The additional legal reasons also highlight the reality that some cases are not clear-cut, in particular as seen by those individuals that indicated they are already sentenced or have a bond or case pending in another jurisdiction.

Did not want to

The final reason identified for two study participants was not wanting to pay their bail, although for conceptually different reasons. For one interviewee, he focused on his frustration with the pretrial process and criminal justice system in general, focusing on his annoyance and dissatisfaction with his bail amount.

“It was a insult for me to get that—worse than that, to receive that type of bail. I can still remember the gestures that the commissioner made, and they were—intention was like he was—in fact, I remember him gesturing towards the state’s attorney saying like, “We got him,” in that matter.”

-Interviewee 24 (\$25,000 bond, 2 months)

This individual felt there was significant unfairness in his case. While he indicated he did not want to pay the bail, he also stated that coming up with the money was ‘not necessarily’ a factor in not posting, although he did not necessarily want to burden his family. He did, however, note that he would attempt to have his lawyer request a bond review, most likely in an effort to reduce his bail amount, and would see about posting in the future. While his reasons were less clear than the others previously mentioned, his situation highlights that some individuals may not want to pay the amount set for them potentially out of principle or perceptions of unfairness in regard to how they were treated.

The other individual classified as not wanting to pay his bail noted that he did not want to post because he had a substance abuse problem, and felt that being in jail was the best option for him.

“Well, I mean, I don’t plan on getting bond. I’m here for possession of heroin. I don’t want to be released. I’m almost 40 years old. I’m trying to get help through this system. I don’t want to be out there, if that makes sense...I’ve been getting high since I was 11. It’s time for a change. I have a six-month-old daughter. I want to do something different. Right now, this is the best place for me.”

-Interviewee 16 (\$1,500 bond, 2 months)

This interviewee indicated that being in jail was the longest he had been sober, and that he was in many ways looking forward to getting into a program. This interviewee highlighted another possible reason why some individuals may not want to post their bail, but also highlighted the unique perceptions that may arise for individuals with substance abuse problems. In relation to substance abuse, another study participant noted a benefit of incarceration included an opportunity to detox, another noted a challenge of posting bail as a result of “burnt bridges” due to his substance abuse, and another also noted that her family was happy she was incarcerated due to her drug use.

Collateral Consequences

Another area this study aimed to explore included the collateral consequences of pretrial incarceration. We asked study participants about the impact incarceration had on their employment, living situation, and their children. Within each of these areas, we see the impact that these collateral consequences have on families and friends of incarcerated defendants as well. Each area will be presented in detail below.

Employment Within our sample, 16 interviewees had employment prior to incarceration, with 14 participants noting they were unemployed. Jobs prior to incarceration included service industry jobs ($n=9$, e.g. fast food server, cook/chef, bartender, sales clerk), manual labor jobs ($n=5$, e.g. maintenance, construction, autobody), with one individual working in a beef plant factory and another as a truck driver.

Of the 16 with employment prior to incarceration, the majority ($n=9$) believed they would lose their job as a result of incarceration, with an additional five indicating they were unsure at the time, but that they most likely would. Only two did not anticipate losing their job. Issues surrounding employment was a major concern for many individuals interviewed, and is therefore a tangible collateral consequence of pretrial incarceration for previously employed individuals, particularly if they are found not guilty or receive a sentence with no jail time. A number of interviewees indicated they had already lost their job, and also highlighted their concern with either maintaining their employment while incarcerated, or finding employment after incarceration. The following quotes highlight these concerns.

“I did call my boss and asked her if she would let me keep the job. She said that there’s only a certain time that she can. Being here almost three weeks—I think I would have to apply again. Then whenever she has the job available, she’d give it to me. . . She told me she could wait a week and then she’d call again next week. Then she never called again.”

-Interviewee 7, cook at fast food restaurant (\$2,500 bond, incarcerated 3 weeks)

“Definitely I lost [job]. I mean, I’m pretty sure you can find a job. It’s just about how quick can you find a job before. . . how quick can you find a job upon release. How long would it take to find a job? That’s the main problem when you’re dealing with being released. It’s the resources again. You know?”

-Interviewee 21, fast food employee (\$50,000 bond, incarcerated 6 months)

“It’s not really easy getting a job because—they’re not gonna tell me they’re not gonna hire me because I’m a convicted felon, but being as though [state name omitted] Case Search is free and available to the public—they might say that they won’t look it up, but people get nosy. They’ll jot it in—jot my name in and see. . . With me, I have a messed up record on Case Search. It prevents me from getting a lot of jobs. Losing that job’s a big deal.”

-Interviewee 27, cook at restaurant (\$80,000 bond, incarcerated 1 1/2 month)

For the two individuals that did not believe they would lose their employment, one was an independent painter, meaning he was self-employed. As a result, he would be able to continue working upon release. The other individual highlighted having a close relationship with her employer, and as a result would not lose her job.

“I’ll still have it when I get out. My boss really helps out. He’s easy to talk to, to where he knows my situation as far as bouncing around place to place and being on my own. He pretty much understands certain people’s—he’s more lenient than other bosses, put it that way. It’s not corporately owned. It’s more of his own business. I think if it was corporately owned, it would have been different. Being that it’s his business, it’s his decision. I still have a job when I get back, which is really good because I need it.”

-Interviewee 14, server (\$2,500 bond, incarcerated 2 and a half months)

Given that many of the employed individuals in this study had jobs that are often classified as unskilled or semi-skilled labor (Laurence, 2019), it is not altogether surprising that job security would be a concern and is potentially uncertain for these individuals. In addition, it is also possible that even short periods of pretrial incarceration can impact employment for these individuals, as highlighted by one interviewee.

“I hope I’m not going to lose my job, because if you did three days, you didn’t show up, or two days, didn’t show up—that can make you lose the job. I don’t know.”

-Interviewee 9, beef plant worker (\$500 bond, incarcerated 2 days)

Overall, study participants emphasized issues related to employment as a major concern due to their pretrial incarceration. This was irrespective of length of time incarcerated pretrial. Interviewees highlighted a number of challenges, including contacting employers while incarcerated, finding employment in a timely fashion upon release, and issues surrounding having a criminal record and future employment.

Living situation We also asked individuals about their living situation prior to incarceration, and whether that would be impacted as a result of being in jail pretrial. In terms of living situation prior to incarceration, 12 individuals lived with family or a significant other (e.g. wife and children, mom), eight lived with roommates or friends, five were transient (e.g. shelter, homeless, living place to place), two were a combination of living with family and roommates, one lived alone, and one was living in a rehabilitation facility when arrested. This information was missing for one interviewee.

The majority of individuals in this study believed their living situation would change or were uncertain about their future living situation ($n=17$). Individuals that lived with a family member, however, were the most likely to believe their living situation would not change, potentially representing those with a more stable living situation prior to incarceration as well. Seven of the 12 individuals living with family prior to incarceration indicated their living situation would not change. Two believed it would change, however, and three were not sure what would happen. For the two individuals that lived with both family and roommates, one indicated it would change while the other said it would stay the same. For individuals living with friends or roommates, five believed their living situation would change or were not sure, while three indicated it would stay the same. The individual that lived alone and the individual in a rehab were both unsure of where they would live. Finally, for the transient individuals, four were not sure while one indicated they would return to the same shelter they were living in before.

As highlighted by the following quotes, many individuals emphasized their uncertainty in future living circumstances, and also expressed difficulty in planning ahead. While this is potentially in part due to their pending criminal charges, it appeared that many of these individuals had unstable living situations prior to incarceration as well.

“Depending on if I go to rehab or not, I might get back on my feet with my grandmother or my mother. It depends what happens. Yeah. I’m sure that maybe if I call my landlord and explain it to him, he would be nice, but I don’t know. I haven’t gotten there yet.”

-Interviewee 16, living with family prior (\$1,5000 bond, incarcerated 2 months)

“I was staying with an aunt, but it was getting close to the time where I would have had to find a place. We actually had a conversation where I had to find a place to stay, but that’s the thing about—they have a care coordinating program. . . and upon your release, you can contact [name omitted], and he can help you immediately with housing, whatever, or—cuz this is the area they specialize in, how to help guys upon release who need immediate assistance.”

-Interviewee 21, living with family prior (\$50,000 bond, incarcerated 6 months)

Homeless individuals face unique challenges since they did not have stable living situations prior to incarceration. These quotes highlight the potential challenges homeless individuals face, and the impact pretrial incarceration can have on this population.

“I’m on the waiting list for housing, and they was talking about four or five years. . . telling me that it’s gonna be years before you get Section 8 housing. . . A lot of times, this how people in my situation falls in this type of situation, waiting and wondering if it ever gonna happen. You could be at the wrong place, at the wrong time. You can get discouraged, get frustrated, and you end up in situations where you’re in jail. Now, I’m taking you off the list, and when you get back out, whenever that is, we’ll put you back on the list, and here we go again. It could be another four or five years.” *-Interviewee 1, homeless (\$2,500 bond, incarcerated 8-14 days)*

“When I get released here and I go outside, if I say I wanna show up at homeless shelter and say I wanna bed, they’re not gonna give me bed. They will say I have to wait maybe a month before you go to get a bed, so it’s not easy.”

-Interviewee 15, homeless (\$1,000 bond, incarcerated 4 months)

“I’d probably go to my friend’s house and help him out with money, pay rent. He’s handicapped himself. He’s in a wheelchair. He’s needing the help. I’d probably go back and talk to him and see what happens. If he allows me to stay for about a month until I get back on my feet.”

-Interviewee 29, homeless (\$5,000 bond, incarcerated 3 and a half months)

Ultimately, uncertainty and instability in housing were evident themes that emerged across all types of living situations, although homeless individuals face unique challenges. However, housing was an evident stressor for many interviewed in our study, and will be a challenge for many defendants leaving jail either during pretrial or at the resolution of their case.

Children A total of 19 individuals within our study indicated having children. All five women interviewed in our study had children. In addition, two male participants noted their partners had a child while they were incarcerated. We were interested in understanding what impact incarceration had on pretrial defendant’s children, and in particular whether their child’s living situation would change as a result of their incarceration. We found that while some living situations for children will remain the same, others were less certain. An additional theme that emerged was the strain that incarceration plays on other family members in terms of shifting childcare responsibility to these individuals (e.g. grandparents, siblings, etc.).

For the 14 men in this study with children, it appeared that the living situation of their children would remain the same. Most younger children of individuals appeared to have the same living circumstances in terms of living with the mother of the child or in the same

custody arrangement. Helping to financially provide for their children and families, however, was an apparent theme that emerged for men with children.

“I was basically the support of my kids and stuff, supporting them, along with their mother. I was basically more helping ’em out a little bit better. It’s just been a financial burden on my whole family.”

- Interviewee 23 (\$7,500 bond, incarcerated 2 months)

“Interviewee: Because I was the primary income. All of my money was going towards bills. I was paying rent, paying the utilities. Car—new car insurance. Groceries. All that. All the life expenses, the living expenses, I was taking care of. I was allowing the mother of my child to save her money and—and she was also pitching in with child care and whatnot. With me being gone, now she has to take everything on her own.

Interviewer: Have they had to change their living arrangement since you’ve been in here?

Interviewee: No, but she’s been—she’s been struggling—since I’ve been in here. She’s just been barely staying afloat.”

- Interviewee 27 (\$80,000 bond, incarcerated 1 and a half months)

In addition, one individual expressed the difficulty of trying to make bail before his child was born.

“Well, through me getting incarcerated at the time, it was Christmas... well, two days before Christmas. My new son was born was born on January 8th... That was hard. That was stressful. Trying to push that bond to get home and to help her, things like that.”

- Interviewee 3 (\$10,000 bond, incarcerated 1 month)

Women included in this study appeared to have unique challenges in terms of the impact of their incarceration on their children. Two of the women indicated that their mother’s

had custody of their children, and that their arrangements would therefore not change. Another two appeared to have to arrange situations for their children. The following two quotes highlight the impact on additional family members in terms of helping with childcare arrangements.

“I still have my rights for them. They just have a safety plan. It’s a kinship thing. I don’t know. My mom has ‘em. . . Yeah, cuz at least they came to get my kids. They’re watching ‘em. There’s no fight or explanation why they wouldn’t. I’m their daughter. Those are my kids. They’ll help me.”

- Interviewee 6 (\$1,750 bond, incarcerated 4 months)

“Interviewer: Were you single parenting your children?

Interviewee: Yes.

Interviewer: Okay. It sounds like you’re saying now your father is taking care of them, or what’s happening?

Interviewee: He lives in New Mexico. He’s just helping her pay the rent. He’s really just paying the rent.

Interviewer: Your 20-year-old daughter is then the one parenting your younger children?

Interviewee: Mm-hmm, the 16 and the 13-year-old. Yep. They live together alone. She’s a soccer coach at a high school. She’s a good kid.”

- Interviewee 13 (\$19,000 bond, incarcerated 1 month)

One woman in our study indicated she was not entirely sure about her children’s living status.

“Interviewer: You have two kids? Two kids that are in your custody?”

Interviewee: Yes.

Interviewer: What is happening with that situation?

Interviewee: I have no idea. Nobody’s contacted me, nothing.

Interviewer: What ages are your kids?

Interviewee: Thirteen and ten. . . I wrote letters.

Interviewer: You were living with someone, so I guess you’re assuming that that other adult is taking care of them.

Interviewee: Yes. I’m pretty sure. I wrote them a letter.

Interviewer: Asking them to take care of them?

Interviewee: No, just letting ‘em know everything that’s going on, and if they could find my parents. All my information and stuff is there at the house. Yeah, so they could call my parents.”

- Interviewee 12 (\$2,500 bond, incarcerated 9 days)

Inevitably, the children of these three mothers appeared to have their lives impacted as a result of their mother’s incarceration. Several women interviewed in this study appeared to have a different set of challenges in terms of arranging their children’s living situation when compared to the men with children, although both groups expressed the difficulty of being away from their children and the overall strain of incarceration on their families.

Additional consequences Several other consequences emerged in addition to issues related to employment, housing, and child custody. A theme that was expressed by several participants included the challenges of their legal case as a result of being incarcerated pretrial. Individuals discussed the difficulty of preparing for their case, in particular issues related to contacting their lawyer, as well as the negative perception of being in jail when facing the judge. The following quotes highlight these difficulties.

“I’ve only spoken to him and seen my lawyer one time since I’ve been here, and I’ve been here two-and-a-half months. I really don’t know what is going on or what they’re gonna do.”

-Interviewee 14 (\$2,500 bond, incarcerated 2 1/2 months)

“It’s usually easier for somebody, a criminal defendant, to fight his case while he is out there in society, than while he is in the walls of a jail. This is not something which is abstract. This is practical. I’ve seen it happen. I have had instances where I was out on bail, whether it was a cash—I paid it or the pretrial services picked up my bond. When I went to court, either the charges were dropped, or I had greater ways to fight my case. I could go and do research. I could go to the local library. I could make several phone calls. My chances, the odds of me beating the case, were greatly enhanced. As opposed to the number of times where I’ve been incarcerated and, by dint of the fact that my movements are circumscribed, in as far as communication is concerned, it’s heavily constrained. It has hindered me from fighting my case effectively.”

-Interviewee 28 (\$10,000 bond, incarcerated 1 1/2 months)

“It’s about perception. You come to court, and you’re in a jump suit, one. Two, you have a better chance to help—deal with your lawyer and get in contact with your lawyer more than you would here. Here you’re just at their mercy when they decide they can come or their caseload. . . I haven’t had a lawyer—I haven’t seen my lawyer, and I have no way to talk—contact. If I was able to post a bond, and a suitable bond was set—a reasonable bond was set—and I was on the streets, I’d be able to go to her, if at all, and see her.”

-Interviewee 21 (\$50,000 bond, incarcerated 6 months)

A number of individuals also highlighted the challenges of being incarcerated pretrial in terms of personal displeasure for being in jail, as expressed by several interviewees.

“This place is a nightmare. It’s the same thing everyday. It’s the same food, and you can’t—oh, I would be out of here in a second.”

-Interviewee 5 (\$2,500 bond, incarcerated 1 1/2 months)

“I just get frustrated with these people. I get no respect. They yell. You’re trying to talk on the phone. Let them get on the phone. Don’t speak or don’t—I try not to say nothing, stay to myself.”

-Interviewee 4 (\$40,000 bond, incarcerated 7 weeks)

These additional collateral consequences were highlighted throughout our interviews with pretrial defendants. Communication remains a challenge for individuals incarcerated pretrial, in particular in regards to connecting with their legal representatives. As a result, many indicated uncertainty in terms of what was happening with their case. Finally, the strains of being in jail were also expressed by many pretrial defendants interviewed. However, incarceration was viewed as a positive collateral consequence for several individuals with noted substance abuse problems, with these individuals viewing incarceration as a potential opportunity to improve themselves through programs or stay away from negative influences.

Procedural Justice

A final area of interest for this study was understanding perceptions of procedural justice of the pretrial process for incarcerated defendants with money bail. In particular, we were interested in understanding how interviewees felt about the bail amount set for them, their impressions of their bail hearing, and whether they felt treated with respect during the hearing. One individual had difficulty answering these questions and was therefore omitted from analysis for this section. As a result, 29 interviewee responses were analyzed for this section.

Bail amount We asked interviewees their opinion of the bail amount set for them, and whether they felt it was fair or not. We found that 17 individuals felt their bail amount

was unfair, while 12 felt it was fair. For the 12 individuals that felt the amount was fair, the majority had bail amounts below \$2,500 ($n=9$), while the remaining three had amounts ranging from \$6,000 to \$51,000. For the 17 that felt the amount was unfair, the majority had bail amounts above \$10,000 ($n=10$) with the highest amount being \$100,000, while four individuals had amounts below \$3,000 and four had amounts between \$5,000 and \$8,000.

Reasons why individuals felt the amount was fair or unfair were evaluated in more detail. In exploring why individuals felt their bail amount was unfair, multiple reasons emerged. A common theme that emerged throughout the procedural justice questions, but in particular in the the bail amount category, was the impression that people's personal situations are not taken into consideration when setting the bail. This led many to feel that their bail was therefore an unreasonable amount. The financial situation of individuals was one personal circumstance several individuals expressed, as stated by the following interviewee.

“Well, my perception is that I’m not a Johnson. You know? I’m not a Lincoln. I’m not a Mr. Jones, you know? I’m not Donald Trump or Mr. Gates. So my perspective is that you dealing with a man from poverty. I have little or nothing. I’ll state once again that my family has little or nothing to turn—of trying to come up with such bond. So therefore, I feel as though that there is some injustice... Once again, if I had the money, I would be out on bond. However, the bond does not suit the situation that I’m in right now.”

-Interviewee 1 (\$2,500 bond, incarcerated between eight and 14 days)

This quote highlights another theme that two others expressed, which was the opinion that their bail amount was ultimately a form of punishment as well. Additional personal circumstances expressed included frustration of the dollar amount due to the fact that it was their first felony, the belief that they are not a danger to the community, the opinion that it was not a serious crime or charge, and frustration that a prior failure to appear or prior crime that occurred a long time ago factored into the decision.

In addition to personal circumstances not being taken into consideration, another reason noted was a lack of clarity or understanding surrounding how the bail amount was determined. Not understanding how amounts are determined made several interviewees feel the amount was therefore unfair, as highlighted by this individual.

“I mean as far as it goes, I mean why are they charging me \$50,000 without having some kind of basis for that, or why are they charging me even \$10,000? Why is it costing me \$10,000? I could afford, say, the program myself to get bond or get a sentence reduction because even if the program is costing me say, just hypothetically, if it’s costing me say \$10 a class or a thing, of course, I could take several classes because here, it’s eight classes to get your certificate for the reduction. If I took eight classes, that’s \$80 as opposed to \$1,500 to get myself out of here. I could afford the \$80 in classes on the outside if I was to go on my own recognizance, but if I’m not treated with that situation, and like I said, if I had failure to appears and all those other things where they could say, ‘We can’t trust you,’ and ‘We would have charge you a bond,’ I could see that.”

-Interviewee 8 (\$10,000 bond, incarcerated one month, three weeks)

Another individual noted that lack of clarity surrounding how bail amounts are determined went beyond his own situation, and was influenced by other incarcerated defendant’s situations, thereby influencing his own perception of fairness.

“Some people in here where they basically got murder charges, and their bonds are, let me stop, where [they have a] higher charge than mine. They’re getting a high bond where—or a low bond—where I’m getting a high bond or whatever, because I’m in here for a Felony 6. They’re in here for a misdemeanor or something like that. I really don’t think that’s fair... Where my friend in here, he’s in here for drinking or whatever, public intoxication. His bond is set higher than mine. His bond is set at \$10,000, and I really don’t think that’s fair. That’s a misdemeanor, and that’s a real low charge.. than mine. I really don’t think it’s fair.”

-Interviewee 18 (\$5,000 bond, incarcerated four months)

In analyzing the 12 individuals who felt their bail amount was fair, several themes also emerged. Notably, it appeared that many individuals with lower amounts felt that their bail was fair or reasonable by virtue of not being extremely high, as emphasized by the following individuals.

“I mean, it was \$1,500, that’s \$150. I mean, you know, that’s for a felony possession of heroin. That’s a relatively good bond... I think.”

-Interviewee 16 (\$1,500 bond, incarcerated two months)

“It was a fair amount. I mean, a lot of people don’t get a fair amount, but I got mine, fair enough, [laughter] so.”

-Interviewee 10 (\$1,000 bond, incarcerated six days)

Another theme that emerged for individuals that felt their bail was fair was the perception of equal treatment or impartiality, as highlighted by the following interviewee.

“Yeah. I’ve talked to other inmates. They all have around that... 2,000 or 2,000, yeah... If that’s how it’s set by the county or whatever, [laughter] I can’t really say it’s not fair—”

-Interviewee 7 (\$2,500 bond, incarcerated three weeks)

Several others noted their bail was fair because they felt they could make sense of how the amount was set. In other words, there was some logic to how the amount was determined, therefore making it fair, as expressed by the following individuals.

“I knew it was a \$1000 warrant. It was a probation thing. I already know. It’s always set for everybody. Everybody already knows that. The \$750, it’s not that high. It’s not that low. With the bondsman, it’s \$75. The trouble is finding a bondsman that’ll go that low.”

-Interviewee 6 (\$1,750 bond, incarcerated four months)

“I mean, \$1000 on each charge is reasonable, I think. You pay, what, six percent of that with the cheapest bond company.”

-Interviewee 17 (\$6,000 bond, incarcerated one and a half months)

Overall, in analyzing perceptions of money bail, we see that impressions of personal situations being taken into consideration, understanding how the amount is determined, and perceptions of equal treatment appear to be important factors for pretrial defendants.

Pretrial hearing process A second set of procedural justice questions focused on the pretrial hearing itself. Interviewees were asked about their perceptions of their most recent pretrial hearing and about their treatment during the hearing. The majority of interviewees ($n=17$) felt the hearing process was unfair, while 10 felt it was fair. Two individuals had neutral opinions of the process. In terms of treatment during the hearing, conversely we found the majority of participants felt they were treated with respect ($n=16$), although nine participants felt they were not treated with respect, and four had either mixed or neutral opinions in their responses.

In terms of the pretrial hearing process, of the 17 that felt it was unfair, a number of themes emerged. As was also seen in the determination of the bail amount, a number of individuals also felt their personal situation was not taken into consideration. In particular, a number of individuals noted the speed of the hearing, or lack of time personally spent on their

case, and the lack of a personal connection. This resulted in feelings of being unheard, and perceptions of unfairness in the pretrial hearing, as emphasized by the following individuals.

“To be honest, I had no idea what was going on. It maybe lasted 30 seconds. I didn’t know what the judge said. He’d never looked at me, never said anything to me. You pretty much walk in a room and you’re handcuffed, and you come up to this little booth window thing, and you stand there for 30 seconds. They don’t even talk to you. The public defender I think it was was on this side, on the left side, and my lawyer was on the right standing towards me. He didn’t really say anything, the judge didn’t look at me, and they’re saying, ‘Well, she doesn’t have any priors’ or whatever. It goes by so fast. I didn’t even know that I had bail. I just stood there for maybe 30 seconds to a minute and they walked me back out. I’m like, ‘What happened?’ It sucked because I actually had to call a bail bondsman in here to see what my bail was; to see even if I had bail. No one even told me what I had it went by so fast.”

-Interviewee 14 (\$2,500 bond, incarcerated two and a half months)

“I think that it could’ve probably took a little more time, looked at my history and my background maybe, and really, the only thing is I’m not a criminal. I have a drug problem. Really, I don’t think I should be even in jail, you know what I mean?”

-Interviewee 10 (\$1,000 bond, incarcerated six days)

“It was the first time I had been, not on a bail review in general, but on a video cam with the representative from the state...standing side by side with me, shoulder to shoulder, giving appearance that they’re playing a supportive role, and then just blatantly speak out against my being released on my own recognizance. Some things about my record which they don’t know, usually they only have a matter of minutes to glance over your record and hopefully try to remember some things. A lotta times, all the information, it’s not even accurate.”

-Interviewee 24 (\$25,000 bond, incarcerated two months)

“I don’t feel like it is [fair] because they just go off on what they get back on their computers and stuff. Not all that stuff is accurate.”

-Interviewee 12 (\$2,500 bond, incarcerated nine days)

As seen with the bail amount, many felt a lack of clarity or information, leading to confusion with the process, as seen in the prior quote from Interviewee 10. In line with this theme, others felt they did not understand why their bail was set for the amount it was set at or why they were not released on their own recognizance. Understandably, many that felt the amount of their bail was unfair also believed the hearing to be unfair.

“I was basically shocked. It really didn’t seem fair or whatever, because the charge I’m in here on is grand larceny and it’s a Felony 6. Basically, it’s about to get turned into a misdemeanor. It really don’t make sense to not give me a bond, and I’m just sitting here waiting, just waiting, waiting, waiting. I’ve been waiting for 115 days already. About time I go to court, I’ll be in here for 130 days. It really don’t make sense.”

-Interviewee 18 (\$5,000 bond, incarcerated four months)

“‘Cause when I first got here, they had the initial one, and then you have another one like four or five days later. I don’t see why they couldn’t lower it then. I don’t get it. Now I have to sit here for another three weeks. I’ll be here almost a month when I have a preliminary hearing and a bond reduction hearing. I’m like, ‘Really? I have to be in here for almost a month just to maybe get my bond reduction?’”

-Interviewee 5 (\$2,500 bond, incarcerated one and a half months)

In analyzing the responses from the 10 individuals who felt the process was fair, we see in many ways polar opposite opinions when compared to those that felt it was unfair. For example, some individuals noted they felt it was fair because they were informed of the process, were happy with their bail and the amount, and liked that the process was short. Others noted that the process was simply perfunctory and was therefore fair, although others noted this element led to perceptions of unfairness.

“My attorney just telling me what was actually gonna happen, instead of just no information. He’s not gonna tell me. I’m guessing that’d be unfair to not tell me what was gonna happen, in front of the judge, at least.”

-Interviewee 20 (\$2,000 bond, incarcerated two months)

“I believe the process was fair. They told me if I would like to have a public defender appear on my behalf, to argue for a lesser amount, in as far as the bond amount is concerned, or to increase the probability of me being released, it was fair. The judge did enumerate the various clauses or, I believe he went over and above, in as far as telling me what the stakes are, what the various—how can I put this? The various stages of the process. He asked me numerous times whether I understood each and every stage. I told him yes. He asked me if I would like to have a public defender appear on my behalf, to represent me in these hearings, and I waived that right. In as far as the process is concerned, I believe it was fair.”

-Interviewee 28 (\$10,000 bond, incarcerated one and a half months)

“It was pretty quick. Yeah, it got us all through the bond stuff.”

-Interviewee 7 (\$2,500 bond, incarcerated three weeks)

In terms of the treatment during the bail hearing, we asked participants to express their opinions of whether they felt treated with respect during the process, and if so, why they felt that way. Of the 16 that indicated yes, several noted that the judge was nice, communication was good, or their relationship with their public defender was good.

“They’re nice. They always try to be nice despite what inmates come before you. Some of them get rowdy. Some of them are coming down still. They try to keep their composure.”

-Interviewee 6 (\$1,750 bond, incarcerated four months)

“Yeah, they treated me pretty respectful. My public defender, she was pretty cool actually. I mean, she was real nice, you know what I mean? I gotta give it to her, so I think that they treated me fair. Considering the circumstances, they treated me fair. I mean, I’ve seen other people get treated worse, so I gotta say, they treated me pretty good.”

-Interviewee 10 (\$1,000 bond, incarcerated six days)

For the nine individuals that had negative impressions of their treatment, not being adequately heard or looked at appeared to influence their perceptions of respect. In addition, being spoken to directly by the judge was important to several individuals.

“The judge basically didn’t wanna listen to anything I had to say.”

-Interviewee 23 (\$7,500 bond, incarcerated two months)

“They don’t even look at you. I’m telling you, it’s racist. If you’re black, you’re done. Although, I can say that I’ve seen some white people being treated unfairly, but mostly it seems like if you’re black, you’re just done. That’s it.”

-Interviewee 25 (\$50,000 bond, incarcerated two months)

“I wish I could have been direct direct with the judge. I feel that the judge was—he was very nice, very respectful... We agreed to something that I think is fair, but I feel as though that if I had an opportunity to meet the judge face to face and talk with him and explain to him, looking at him right in the eye, I could explain to him, look—you’re dealing with a man from poverty now.”

-Interviewee 1 (\$2,500 bond, incarcerated between eight and 14 days)

“If you respect somebody you don’t judge people by their cover, you hear what I’m saying? You at least try to figure out something.”

-Interviewee 30 (\$100,000 plus bond, incarcerated five months)

Overall, these perceptions of the pretrial hearing process led many to feel they were considered “guilty,” and the topic of innocence was emphasized by five participants. Select quotes highlighting these opinions are presented below.

“They mostly treated everybody like a convict, whatever. Even if you sitting in here for a charge, and they haven’t found you guilty of the charge, they still treat you like a convict. Really I don’t think it’s fair, whatever.”

-Interviewee 18 (\$5,000 bond, incarcerated four months)

“No, it’s guilty until proven innocent, I have to prove my innocence. I have to go to prison, and file these appeals and do all this paper work, just to make it so I can get back to court and say, ‘You know y’all did this wrong.’ That’s how it works, it’s all about money, we’re cattle.”

-Interviewee 25 (\$50,000 bond, incarcerated two months)

Perceptions of fairness or procedural justice within the pretrial process, including bail setting and the pretrial hearing, appear to depend on the absence or presence of a number of factors. The desire to have one’s personal situation and circumstance taken into consideration appears to be an important factor for fairness, as was expressed by 14 individuals. In a similar vein, feeling heard and seen by those involved in the decision-making process appeared to be another important indicator of procedural justice. Finally, being able to understand how decisions are made, as well as access to information, appears to also be important for influencing perceptions of fairness.

Special circumstances for homeless or indigent defendants Individuals that identified themselves as homeless in this study ($n=5$) noted a number of additional opinions on their perceptions of procedural justice within the pretrial process. Notably, many felt that their status as homeless or indigent was a constraint in the pretrial process. One individual who was homeless felt that while he believed the bail amount was fair, he still believed it was purposefully set at an amount the judge knew he could not afford.

“They know me. I’m homeless, so for me, I think there’s other ways they can do so I can get out, you see? I think that’s the reason they do that. Not because I’m gonna pay. They know that I’m not able to pay to get out, so that’s why they give me that... It’s too high. I’m not gonna be able to get out. That’s the reason they do like that.”

-Interviewee 15 (\$1,000 bond, incarcerated four months)

Other homeless individuals believed that lacking a fixed address kept them from being released pretrial, which they felt was unfair.

“I think due to the situation that I don’t have a fixed address that they feel comfortable with or certain of, it created a situation where he might not be reliable or dependable to show up in court. I think that’s unfair, ‘cause if I was homeless and was falsely accused of a crime, then I should be entitled for a bond. . . Housing shouldn’t have anything to do with it. It’s about your rights.”

-Interviewee 1 (\$2,500 bond, incarcerated between eight and 14 days)

“I feel like that’s unfair and unjustly because. . . It’s just that I’m still being—my rights has been messed up. Because I’m living in the shelter, why I can’t get outta jail? I still have a life.”

-Interviewee 23 (\$7,500 bond, incarcerated two months)

These additional opinions give unique insights into the perceptions of fairness for this specific population. Although on the surface these bail amounts may appear to be low, these individuals highlight the belief that other factors related to their indigent status kept them from being released pretrial.

3.2.4 Discussion

This study aimed to better understand the perceptions and motivations behind why pretrial incarcerated defendants do not pay their money bail. Secondary goals included understanding the collateral consequences of pretrial incarceration for these individuals, as well as perceptions of procedural justice. Speaking directly with defendants held on money bail provided extensive information on these topics, which were then analyzed for themes identified through the 30 participant responses.

Ultimately, we found that financial reasons were the main self-reported cause for why individuals incarcerated pretrial did not post their money bail. Additional factors played a role for too, including legal reasons (e.g. accruing time, already sentenced), as well as simply not wanting to (e.g. due to principle, an opportunity to get sober). However, our results highlight that the reasons for not paying are not entirely clear cut, as many defendants

noted a number of reasons. Despite this, money appears to be a driving factor behind some of these additional reasons, notably accruing time. In other words, lack of finances (e.g. I or my family cannot pay) or additional financial motivations (e.g. saving resources for family) appear to trigger a rationalization process for many incarcerated individuals. Once individuals do not pay their bail, many begin to look at the benefits of their pretrial incarceration in terms of getting time served or doing programs to reduce their sentence. Research has shown that the assignment of money bail alone leads to an increase in plea deals (Gupta et al., 2016), and that defendants held pretrial are more likely to accept plea deals and to plead faster when compared to similarly situated individuals (Stevenson, 2018; M. Sacks & Ackerman, 2012). Our research potentially sheds some light on why this occurs, in particular for those with money bail.

In addition, our findings also highlight some of the complicated realities of pretrial detention. We found that some individuals that noted financial reasons for not paying their bail also indicated additional legal complications of their cases. Some individuals had bonds, warrants, or pending charges in other jurisdictions. Even if they could financially afford to pay, they still may be transferred to another jurisdiction, and ultimately remain incarcerated pretrial. While these cases appeared to be the exception rather than the rule for individuals in our study, they highlight that financial resources alone for these individuals may not be able to resolve their pretrial detention.

In addition, there appears to be a small minority of individuals that want to remain incarcerated pretrial for a variety of other reasons. While our research provides evidence supporting claims that many individuals do not pay their bail because of inability to pay, it also provides additional information on the reasons and motivations behind why some individuals do not pay, providing a more nuanced picture of this decision. As a result, the simple causal model stating all individuals held pretrial on money bail are there because they simply cannot afford their bail (e.g., Rabuy & Kopf, 2016) does not take into account these additional situations. These results help fill a gap in the pretrial literature by providing

additional insights on the decision-making processes of those directly impacted by money bail.

For our second area of interest in this study, we found that the collateral or unintended consequences of pretrial incarceration for defendants held on a money bail are substantial. Pretrial incarceration seriously impacts employment, disrupts living situations for many, and has an overall negative impact on children and families in general. Ultimately, there is a rippling effect of consequences for not posting bond that often extends beyond the defendant. We found that the majority of those employed prior to incarceration believed they would lose their job or were unsure. Finding future employment also appeared to be a major concern for these individuals. In addition, we also found that many individuals held pretrial are potentially financially unstable prior to incarceration, as nearly half of our participants were unemployed. Similarly, housing appeared to be a major stressor for many in this study. We found that the majority of pretrial defendants interviewed believed their living situation would change as a result of incarceration, or were uncertain of their future living situation. Pretrial incarceration therefore has the ability to substantially impact housing, in particular for those that appear to have precarious housing.

On the topic of children, we found that the majority of individuals in our study were parents to children. A major finding for this area was the differences seen between men and women with children. For the men with children in the study, living situations for children appeared to remain stable. Although these children's custody arrangement was not necessarily altered, it was apparent that pretrial incarceration still impacted the overall family for many of these children. Many men expressed the financial strain and burden their incarceration placed on additional family members. Two men had children born while incarcerated, and emphasized the difficulty of not being around to help their family and partners during this time. For the five women with children in this study, we found that two had to make arrangements and rely on others (e.g. their parents, other children) to manage their child care responsibilities while they were incarcerated. This emphasized the additional burden that incarceration can have on extended family members. Finally, one

woman was not entirely sure what her children’s living status was, although she was the primary guardian. Ultimately, these interviews highlighted the different challenges pretrial incarceration may place on men compared to women with children.

In looking across all interviewee responses (men and women), it is apparent that many children and families of these incarcerated pretrial defendants face challenges with economic instability, as well as maintaining relationships with their incarcerated family member. Henrichson et al. (2017) argue that issues resulting from pretrial incarceration as a result of not posting money bail, including loss of wages, unemployment, and an accumulation of debts, can “drag families into (or deeper into) poverty” (pg. 17). This is consistent with findings from a report by the The Annie E. Casey Foundation (2016) on the impact of parental incarceration on children and families, which notes that incarceration is an added financial burden to the family and an obstacle to child and family health, and well-being. Additional research on this topic has shown that incarceration of a parent or guardian is considered an adverse childhood experience (ACE), or a potentially traumatic event that can have negative and lasting effects (V. Sacks, Murphey, & Moore, 2014). It is therefore important to realize the unintended consequences of incarceration are far reaching, and have potentially devastating long-term effects. Our findings on the impact of pretrial incarceration on children and families, combined with the additional consequences to children, highlight another reason for discouraging the unnecessary incarceration of pretrial defendants held on money bail. Finally, additional unintended consequences that emerged included challenges preparing for their legal cases, as well as difficulty adjusting to living in jail in general. These additional consequences have also been noted by others highlighting the impact of pretrial incarceration (Subramanian et al., 2015).

While research interviewing those directly impacted by pretrial incarceration is limited, a 2015 report published by the Colorado Criminal Defense Institute (2015) discovered several similar findings to those found in the current study when interviewing individuals held in jail on money bail, although the Colorado report did not appear to use a rigorous study design. Despite this, however, those interviewed in the Colorado report noted themes related to

loss of jobs and homes and disruption to families, as well as loss of personal belongings and reliance on public assistance following release from jail. The present study adds to this literature and provides evidence based on empirical research from those directly impacted by money bail.

Our final area of interest for this study included understanding perceptions of procedural justice for pretrial detained defendants, an area that has been under evaluated in the pretrial stage. We asked defendants about their perceptions of fairness in relation to their bail amount, and the overall pretrial bail hearing process, including treatment during the hearing. In analyzing these responses, a general definition of what fairness looks like in the pretrial process began to emerge. Overall, this included transparency around how the amount is determined, including providing clarification and information on the decision. Feeling that personal situations are taken into consideration at the pretrial hearing also emerged as an important factor for procedural justice. Other important factors included perceptions of equal treatment, as well as feeling heard and seen by the judge.

These findings are in many ways in line with the four elements of procedural justice highlighted by Tyler, which include voice/participation, neutrality of decision-making, trustworthiness, and treatment with dignity and respect (Tyler, 1988; Tyler & Thorisdottir, 2003; LaGratta & Tyler, 2017). Interviewees in our study indicated the desire to have their voices heard, in particular the desire to feel as though their personal situation was taken into consideration. In terms of neutrality, many noted that for them fairness meant consistent application of the rules, as well as transparency of the decision. Trustworthiness was highlighted through the theme of understanding the process and why decisions are made. Finally, treatment with respect and dignity was emphasized by several interviewees in terms of the importance of speaking directly with the judge, and feeling seen and heard. In addition, several of our findings were consistent with findings from Irwin-Rogers and Shuter (2017), who discovered that defendants in England and Wales believed bail decisions were arbitrary and that stakeholders undermined defendant's rights to a fair and impartial trial process. In our study, the former theme was most notably seen by interviewees highlighting a lack of

clarity around the decision and the latter theme was highlighted primarily by homeless individuals. Future research should continue to explore the area of procedural justice within the pretrial process, especially as the concept of fairness surrounding money bail is currently an important topic in the pretrial reform movement. Additional observational research, including observing bail hearings, could be valuable to better understand the interactions between the courtroom work group (e.g. magistrate, judge, prosecutor, etc.) and the pretrial defendant. Interviews following these hearings could also provide valuable insights into how the defendant perceived the process.

A final and notable contribution from our study was the additional spotlight on issues related to homelessness. In discussing perceptions of fairness, several individuals indicated the belief that their status as homeless put a constraint on the pretrial process. An additional opinion noted by several homeless individuals was that the judge set an amount they knew the individual could not meet. Others also noted that not having a permanent or fixed address impacted the judges' decision, and that their financial circumstances were not taken into consideration. These individuals highlight another complicated reality of the pretrial process, notably how to address homeless individuals and most likely the potential risk they pose in not returning to court. The jails included in this study all used pretrial risk assessments, which in many cases aim to maximize the release of low-level offenders from jail (which these individuals arguably were as their bail amounts were all relatively low, although this is an assumption). However, this population may still cause a hurdle to pretrial reform efforts even with PRAIs, because homeless individuals tend to have more extensive criminal justice histories compared to non-homeless individuals, are more likely to be arrested for nuisance offenses (Breakey & Fischer, 1990; Peterson, 2015), and do not necessarily have stable housing or employment, measures used in some risk assessment instruments. Judges may therefore consider these individuals to be risky bets for pretrial release. In addition, risk assessments provide judges with an indicator of how risky an individual may be (in terms of potential pretrial misconduct), but this recommendation has no bearing as to the

dollar amount a judge can set, still giving judges considerable discretion when determining the amount.

While a number of solutions have been implemented to help address homeless individuals at the pretrial stage, including specialty homeless courts (Lopez, 2017), homeless pretrial release projects, as seen in San Francisco (Riker & Castellano, 2001), or other efforts prior to arrest, including the District of Columbia Pre-Arrest Diversion Pilot Program, which includes the goal of improving housing stability for homeless individuals (District of Columbia: Department of Human Services, n.d.), additional research exploring how to address homeless pretrial defendants should be explored. In addition, research evaluating the impact of risk assessments on this group is encouraged. Many argue the criminalization of poverty affects this population in particular and is on the rise (Tars, 2016; Edelman, 2017), and for these reasons research evaluating the impact of pretrial incarceration on these individuals appears warranted as new pretrial reform efforts are imposed.

Limitations

There were a number of limitations to the current study, several of which were similar to those seen in Study 1. As was seen in Study 1, one jail had fewer participants (Jail 2) compared to the other jails. Analyzing the interviews in aggregate, however, helped to minimize any potential differences seen between jails. Another similar limitation was that we were not able to verify the amount of participants' money bail, the length of time they were incarcerated, or any information on their actual criminal case.

In addition, all jails included in this study used a PRAI, although the majority of citizens in the United States currently live in jurisdictions currently not employing a PRAI (Pretrial Justice Institute, 2017b). However, as many pretrial reform efforts are strongly encouraging the implementation of PRAIs, this study provides unique insight into the perceptions of individuals currently incarcerated in jails using a PRAI.

An additional limitation to this study included the differences in time between jails when interviews were conducted. In two jail facilities, interviews were completed the same

day as the survey tool, while there was a gap in time between the surveys and interviews for two other jails. It is possible that we lost individuals that noted they were willing to complete a survey in the interim, either by posting their bail, having a court date, or being released in another way. It is also possible that the individuals from the jails with the time gap may be different from those that were interviewed the same day, in that they have been incarcerated for longer periods of time. In addition, the opinions and reasons for not paying may be dependent on where individuals are in the criminal justice process. However, including individuals at potentially different points in the process is ultimately valuable to understanding why defendants do not pay their bail, the tangible consequences they face, and their opinions on procedural justice.

An additional challenge was the length of the interviews. Due to time constraints of conducting research in the jails, we were also not able to have long, in-depth interviews. Some jail facilities had limited access times for the researchers to conduct the interviews, including lock down periods or other logistical obstacles. In addition, another goal of this study included maximizing the number of individuals we could speak with while we were at the jail facilities, which made shorter interviews more beneficial in this respect. However, another potential limitation of this research is that interviews were relatively short (approximately 15 minutes), although all major areas of interest were addressed within this time period based on the semi-structured interview questionnaire. Future researchers conducting interviews on this topic could expand on our research by further investigating a number of topics. For example, it would have been beneficial to have additional information on the alleged crime and charges that led to these individuals being incarcerated pretrial. It would have also been valuable to know whether these individuals had any prior failure to appear as well, or other factors that could have affected their bail setting. Investigating additional financial information would have also been useful, including a better understanding of individuals' financial status (e.g. income, both legal and illegal), whether they asked for a public defender, or were on public assistance.

In addition, although the interviews were mostly conducted by two individuals (with an additional Spanish-speaking interviewer that conducted one interview), only one individual conducted the data analysis. Although the data were double coded, there is still potential bias as a result of having a single coder. Another potential limitation of this study was that we were only able to conduct a single interview with a Spanish speaker, as our Spanish-speaking undergraduate assistant was not able to attend every jail facility. That being said, we also did not have a lot of Spanish speakers that were willing to participate in interviews. Ultimately, increasing the number of interviews with Spanish speakers in the future should be encouraged, as they may have additional insights, opinions and perceptions that may be unique to the pretrial process. For example, Spanish speakers may have additional hurdles in terms of understanding the pretrial process due to language barriers.

3.3 Study 3 - Administrative Data

3.3.1 Overview

The overall goal of this study was to better understand the impact of poverty on important pretrial decisions and outcomes. This study included an analysis of administrative data collected by a pretrial service agency and corresponding sheriff's office, analyzing pretrial jail commitments from a single jurisdiction over a single fiscal year (2016). Towards this end, the relationship between pretrial release decisions and outcomes (e.g. an initial court decision, the final bail outcome, who posts their money bail, money bail amount, and length of time incarcerated pretrial) and poverty proxy variables (e.g. housing status, unemployment, etc.) was evaluated.

Survey and interview data collected from this jurisdiction's jail was also included in Study 2 and Study 3 (Jail 1 in both studies). This jurisdiction is located in the mid-Atlantic region of the United States and is a predominately populous suburban jurisdiction. Ultimately, a total of 2,332 pretrial individuals committed to Jail 1 during fiscal year 2016 (June 1, 2015 to July 31, 2016) were included in this analysis. Logistic regression and Ordinary Least

Squares (OLS) regression modeling was used to measure relationships between important bail decisions and outcomes, and several indicators of poverty.

Ultimately, our findings illustrate the impact poverty has on the pretrial process in a number of ways. We found a relationship between poverty and the final bail outcome of whether someone is given a money bail or no bail pretrial, whether someone pays or does not pay their money bail, the money bail amount, and the length of time incarcerated pretrial. We did not, however, find a relationship between poverty and the initial court decision. In addition, the legal factor of risk level, based on the PRAI used in this jurisdiction, influenced each of our models.

3.3.2 Methods

Sample and Site Selection

The sample of individuals included in this study was drawn from a census of pretrial detained defendants committed to jail without a bail (i.e. preventive detention) and those held on a money bail within Jail 1 during fiscal year 2016 (July 1, 2015 through June 30, 2016) who were interviewed by pretrial services. The jail houses both male and female pretrial detained defendants, as well as adjudicated inmates serving their sentences, with a maximum average daily population of 1,260 individuals. Approximately 53 percent of individuals held in the jail during the time-frame of interest were pretrial, or had not yet been sentenced.

The pretrial process seen in the jurisdiction included in this study in many ways follows the model for evaluating bail setting decisions as set forth by Goldkamp and Gottfredson (1979), which includes three steps. The first step is whether or not an individual will be released on their own recognizance, referred to as a personal recognizance in this jurisdiction. The second step includes determining whether an individual will receive a money bail or no bail for those individuals not released on their own recognizance. The final third step is then the determination of the specific amount for those offered a money bail. In addition, the jurisdiction included in this study does not use a bail schedule, or a predetermined bail amount based on the charge, when determining the money bail amount. The focus of the

current study therefore includes an evaluation of the second and third decision points, and does not include step one.

To be eligible for this study, the pretrial defendant must have been interviewed and investigated by pretrial services, and had a pretrial risk assessment conducted. In the jurisdiction this study took place in, a pretrial investigation/interview is only conducted for defendants that are arrested for one or more jailable offense (i.e. offenses that present the possible penalty of jail time). Following the determination of probable cause, a magistrate makes an initial bail decision immediately following booking, although they do not include a PRAI evaluation. This initial magistrate decision includes whether an individual will be released on their own recognizance, or whether they will be offered a money bail or no bail. It is at this point that pretrial services conducts an interview/investigation, including a risk assessment, for those individuals that remain in jail with no bail or on a money bail.

Following the interview by pretrial services, an initial court hearing occurs, where an individual's charges and bail status are reviewed. We therefore did not evaluate the initial bail decision made by the magistrate, but rather evaluated the first court hearing with a judge, which includes the risk assessment information. A pretrial defendant may also have a bond reduction hearing following this initial court hearing, and may therefore have additional opportunities to have their bail status changed throughout the pretrial process.

On average, roughly 4,500 to 5,000 defendants are investigated and interviewed per fiscal year at this jail. This interview/investigation occurs relatively quickly following the magistrate's initial decision, generally less than 48 hours following booking. Defendants that are not investigated by pretrial services include those that are arrested on offenses that commonly result in a personal release on recognizance following a brief period of incarceration, such as drunk in public or driving while impaired (DWIs) offenses to allow individuals to sober up. In addition, individuals that post their money bail immediately following the magistrate's decision may not be interviewed and investigated by pretrial services. Finally, juveniles or individuals with criminal arrests related to family matters are not investigated.

Eligible study participants must have either had a money bail or financial condition set by a judicial officer (magistrate, judge), meaning they needed to pay (e.g. secured bond, cash bond) in order to be released, or been given no bail (i.e. preventive detention) following the initial court hearing. In addition, they must have been committed to the jail within our time period of interest (FY 2016). The population of interest for this study therefore includes incarcerated pretrial defendants within the jail that have the potential to remain incarcerated for the duration of the pretrial stage.

Data Sources

Archival administrative data was analyzed from two data sources: the pretrial data management system used by pretrial services and the sheriff's data management system. A brief description of both sources is presented below. Data pertaining to individuals with a pretrial confinement to Jail 1 between the time period of June 1, 2015 through July 31, 2016 was analyzed, although jail data was analyzed beyond this time period in order to fully capture the outcome of each individual's pretrial incarceration.

Pretrial Data The pretrial service agency in this jurisdiction has several important tasks following an individual's arrest. They are responsible for interviewing and investigating defendants who are detained in their jurisdiction's jail awaiting a pretrial hearing, or the bail decision. They are also often tasked with the creation and presentation of a pretrial investigation report to assist the court in the bail decision. This report may include a pretrial risk assessment score (e.g. low, average, above average, etc.) indicating their overall pretrial flight risk and threat to community safety. This score is ultimately a combination of several factors that are weighted and combined to create a single risk score. Often a bond recommendation will also be made based on the interview and risk score (e.g. release on personal recognizance, secured bond, no bail, etc.).

Data captured in the pretrial database (PD) was one of the two data sources analyzed in this study. A state-run criminal justice agency in the state the jurisdiction is located

in is responsible for the management of the PD. The jurisdiction's pretrial services agency is responsible for inputting and maintaining defendant data in the PD. Data in the PD includes defendant demographic information, pretrial risk assessment information and the corresponding risk score, criminal history information, charge information, the pretrial recommendation, and the initial court decision (e.g. secured bond, no bail, etc.), although additional case management information is also captured.

Information collected from the pretrial interviews and investigations following jail commitment is entered into the PD by a pretrial officer. Some of the data is based on self-reported information provided by defendants during these interviews, including housing information, annual income, whether they are on government assistance or not, prior or current substance use information, and employment status. A pretrial officer may verify certain information collected from these interviews, including addresses or employment, but may not necessarily verify everything. The risk assessment includes self-reported information collected during these interviews, including employment status or length of time at current residency. While self-report data may have its limitations, this information is used in combination with other factors within the risk assessment to produce a risk score which influences the recommendation pretrial staff provide to the court. Therefore, assessing the data collected in the PD, including self-report data, is a valuable source of information for analyzing the relationship between poverty, pretrial decisions, and outcomes.

Jail Data The sheriff's office is responsible for operating the jail, as well as keeping records on all individuals housed in their facility, including information on defendants held pretrial. The sheriff's office manages their own jail database (JD). Information pertaining to all incarcerated individuals detained in their jail is maintained in this database, including pretrial defendants. Important pretrial information is captured in the JD, including date of arrest, initial date of jail confinement, court date information, date of release from the facility (if applicable), their bond information (e.g. no bond, released on recognizance, secured bond), and the bond amount per charge (if applicable).

Dependent Variables

There were a total of five dependent variables analyzed in this study, based on the study objectives. The first variable of interest was the initial court decision, which is captured in the PD. This variable was dichotomously coded as bail or no bail. The remaining dependent variables came from the JD. We were also interested in the final bail outcome of the pretrial process, as defendants' bond statuses can change as a result of additional bond hearings (i.e. bond reductions). The final outcome was therefore also dichotomously coded as bail or no bail. An additional set of analyses were also evaluated for individuals that had the final bail outcome of receiving a money bail. For these individuals, we were interested in evaluating the outcome of whether they posted their money bail and were released, or did not and remained incarcerated pretrial. The money bail amount for these individuals was analyzed, as well as the length of time incarcerated pretrial. For the money bail amount, we analyzed the amount the individual paid when they were released, or the final amount listed for individual's with a money bail in the JD (i.e. the amount they would have needed to pay to be released). The amount of time incarcerated pretrial was calculated from the date of commitment into the jail facility to when they were released or to when they had their final pretrial court date (for those that were not released).

Independent Variables

The main independent variables of interest in this study included extralegal variables related to poverty, or poverty proxy characteristics. Poverty is often operationalized in criminal justice research in different ways, including analyzing annual income, employment status, and the assignment of a public defender, although this list is not exhaustive. This study included several proxy characteristics of poverty that are collected in the PD, including information on residency and employment status. Although the PD has the option to capture data on defendant income and use of government assistance, this data was unfortunately missing for the vast majority of individuals included in this study and was therefore inaccessible. However, as addresses are a required component of the PD, connecting defendant address

information to block-level data on poverty proxy characteristics captured in the American Community Survey (ACS) conducted by the U.S. Census Bureau was undertaken in an effort to fill potential information gaps on poverty, and to also provide additional information on the neighborhood defendants reside in. While there could be concern that some of our poverty proxy variables are also included in the risk score, the risk score does not include a direct measure of our poverty variables. This potential concern is discussed further in the results section of the study, in particular in the regression analysis. A brief explanation of the independent poverty proxy characteristics included in this study is presented in the following section.

Residency Pretrial officers obtain multiple pieces of information on a defendant’s residency that relate to poverty. This includes whether an individual is homeless or not, whether they have a fixed address, the type of residency (e.g. own, rent, motel/hotel, transient), and for how long they have lived at this address. Data collected on residency was included as indicators of poverty. While being transient is not necessarily a perfect measure of poverty, as some individuals may be homeless but financially stable, insufficient income and lack of affordable housing are the leading causes of homelessness (National Law Center on Homelessness & Poverty, 2015). In addition, lack of fixed address is often synonymous with precarious housing or homelessness.

Employment Employment information is collected during the pretrial interview. This includes whether the defendant is currently employed. Although employment status by itself does not indicate the presence or absence of poverty, being unemployed leads to a loss of income and resources, and can perpetuate cycles of poverty. In addition, the monthly poverty rate for households with a long-term unemployed member (six or more months) is considerably higher compared to the rate for households with no long-term unemployment (Nichols & McDade, 2013). Unemployment can therefore play a role in perpetuating cycles of poverty. While we did not have data on the length of unemployment for those included in this study, an analysis of employment on its own is still useful as a poverty proxy characteristic.

Address and American Community Survey Variables Defendants' residential addresses are captured during the intake process, and are confirmed during the pretrial interview. In an effort to capture additional poverty proxy characteristics, defendant addresses were geocoded and merged with block group data through the U.S. Census Bureau's American Community Survey (ACS). The ACS is a monthly survey that is sent to roughly 3.5 million addresses per year within the United States (United States Census Bureau, 2013). In addition to other areas of interest, the survey collects economic information on small areas and population groups, including poverty status, income, and employment status, and can be broken down to the block group level. Block group levels are the smallest geographical unit that the U.S. Census Bureau publishes data on, and are typically made up of populations between 600 and 3,000 people (United States Census Bureau, 2008). Using this method to evaluate other poverty proxy characteristics through defendant addresses provides an objective measure of poverty, in that they represent the neighborhood context where these individuals reside. Recent research evaluating pretrial process decisions and incomes has also incorporated elements of neighborhoods and ecological contributors (Vilcić & Goldkamp, 2015; Wooldredge et al., 2017). Since address information is required for pretrial defendants, this technique provides poverty data at a small geographical unit for defendants, and may also help fill gaps if other poverty-related information is not available. Variables we chose from the ACS included percent unemployed (individuals over 16 years of age), percent income less than \$14,999 (per household and based on poverty threshold data for 2016), and percent income in past 12 months below poverty level (per individual).

Control Variables

Control variables included basic demographic information on defendants, including age, gender, race, education background, marital status, citizenship, and whether an individual has dependents and/or children (children 18 years of age or younger). The legal factor of risk level was included in this analysis, as this is taken into consideration during the initial court hearing. The risk level is calculated based on eight risk factors: 1) current charge type,

2) pending charges, 3) criminal history, 4) two or more violent convictions, 5) two or more failures to appear (FTA), 6) length at current residence less than one year, 7) not employed two years/primary caregiver, 8) history of drug abuse. Five risk scores are then calculated, ranging from below average to above average.

Hypotheses

Based on the objectives of this study, five hypotheses were tested, net defendant demographic and legal characteristics. Table 3.17 provides the corresponding hypothesis for each objective in Study 3, as well as the population of interest. We refer to poverty in these hypotheses, which are represented by our independent or poverty proxy variables.

Analysis

Data Management All data management and analysis was conducted in the statistical software program Stata. Prior to data analysis, a number of data management procedures were conducted. First, a copy of the entire PD including numerous data tables were exported. Data tables including variables of interest were identified, data manipulation including data cleaning, recoding, and manipulation of key variables of interest was conducted, and data tables were merged using individual's case id numbers into a master PD file. Cases were filtered for a date range slightly larger than the fiscal year of interest (June 1, 2015 to July 31, 2016) to include cases between January 1, 2015 and December 31, 2016. This time range was expanded slightly prior to merging with the jail data in an effort to not lose any cases before merging the data. This resulted in a total of 7,271 individuals.

A single data table including information on all jail commitments within the time frame of interest (June 1, 2015 to July 31, 2016) was exported from the JD, which resulted in 12,186 unique individuals, although information on the individual extended beyond this time frame in order to ensure we captured all their pretrial information. As with the PD, data manipulation (coding, cleaning, etc.) was conducted. In the JD, individuals are given a unique id and bail information (e.g. bail type, bail amount, release information, etc.)

Table 3.17: Study 3 Hypotheses

Objective	Hypothesis	Data Source
(1) To examine whether a relationship exists between poverty and the initial court decision of being detained without a bail versus being offered a money bail for those individuals who are incarcerated pretrial.	(1) There will be a relationship between poverty and the initial court decision of no bail versus being offered a money bail pre-trial.	(1) All incarcerated pretrial defendants (held without bail or with a money bail)
(2) To examine whether a relationship exists between poverty and the final bail outcome.	(2) There will be a relationship between poverty and the final bail outcome of being detained without a bail versus being offered a bail money bail for those individuals who are incarcerated pretrial.	(2) All incarcerated pretrial defendants (held without bail or with a money bail)
(3) To examine whether a relationship exists between poverty and the pretrial outcome (pay and leave versus don't pay and stay) for those given a money bail.	(3) There will be a relationship between poverty and the pretrial outcome of paying a money bail versus not paying for those offered a money bail pretrial.	(3) Incarcerated pre-trial defendants held on a money bail.
(4) To examine whether a relationship exists between poverty and the money bail set.	(4) There will be a relationship between poverty and the money bail set.	(4) Incarcerated pre-trial defendants held on a money bail.
(5) To examine whether a relationship exists between poverty and length of time incarcerated pretrial.	(5) There will be a relationship between poverty and the length of time an individual is incarcerated pretrial.	(5) All incarcerated pretrial defendants (held without bail or with a money bail).

is captured per charge. We therefore created what we called a unique bail event for all individuals. Bail events encompassed combining charges that were matched on commitment date. If a charge was added during their commitment time period, their bail information was added to the event. Bail information was then collapsed per bail event. For example, someone with two charges would have two money bail amounts per charge (\$500 and \$1,000), which would result in an event containing two charges and a \$1,500 money bail. Additionally, someone could have multiple charges, all resulting in a no bond. A final bail outcome was generated for each bail event based on the last bail type indicated per bail event in the individuals record. For example, if someone had on their record a money bail, and they posted their bail and were released, this individual was classified in the group with a money bail, their final amount was indicated, and they were classified as posting their bail. For individuals with multiple charges and different bail types per charge, we grouped these situations based on the following logic. If an individual had a money bail and a no bail, for example, this individual was classified with no bail since they could not be released from jail pretrial. If an individual had a personal recognizance bail and a money bail, their bail event was classified as money bail, since they were required to pay money in order to be released. Since individuals could have multiple commitments per year and therefore multiple bail events, we selected the first bail event per individual. Individuals that were classified as PR only were removed from analysis ($n=4,444$), since they did not have to pay to be released. This resulted in 7,742 individuals with a single bail event.

Since the case id number from the PD did not match with the unique identifier in the JD, data files were then merged between the PD and the JD using defendant's first and last names that fell within a five-day range of a jail admission date. Names and any identifying information were then removed. This ultimately resulted in a match of 2,332 unique individuals that were included in the final analysis for this study. Given there are approximately 4,500 to 5,000 interviews/investigations completed by pretrial services in this jurisdiction per year, our final sample represents between 46 and 52 percent of pretrial defendants held

in jail that were interviewed/investigated by pretrial services within this jurisdiction. In addition, spot checking was conducted on a handful of cases to better evaluate why some cases were not merging. In many instances, this was due to missing pretrial services data on the individual. This is likely due to the fact that not all individuals that are arrested and given a bail receive an interview and investigation (e.g. immediately pay bail, case transferred to domestic relations court, DWI, etc.). We were therefore confident that we did not lose a lot of cases due to the merge failing.

The next step in preparing the data for analysis included incorporating ACS information. Defendant address information was exported from the three states with the highest percentage of defendants in our sample. This resulted in address information from 2,077 individuals. Addresses were formatted and cases where no address or insufficient address information was provided were removed, resulting in 2,015 individuals. These addresses were then batch geocoded using the Census geocode process. This process provides information on each address, including the specific block level group. Addresses that did not have a match were removed.

Next, variables of interest from the 2015 five-year estimates of the ACS were retrieved based on the included three states. The geocoded addresses and ACS data were imported into Stata, and ACS and address information were merged. This resulted in 1,796 individuals that had additional data on ACS variables. This information was then merged with the final merged JD and PD file.

Analysis plan In testing each of the five hypotheses, regression analyses were conducted. Each test evaluated the specific dependent variable being evaluated. In order to isolate the effects of our poverty proxy variables on the different bail outcomes, demographic and legal variables were controlled for in order to evaluate similarly situated individuals. To test hypotheses one, two and three, logistic regression models were evaluated for the dichotomous dependent variables of initial court decision (no bail/money bail), final bail decision (no bail/money bail), and the money bail outcome for those that were offered a financial

condition of release (paid or did not pay). In testing hypotheses three and four, an ordinary least squares (OLS) regression was evaluated for the continuous variables of money bail amount and days incarcerated pretrial.

Prior to running the models, all variables included in our models were analyzed independently and distributions of our variables were explored. For variables that had non-normal distributions, these variables were log transformed prior to including them in our models. For the independent variables, the length of time at residence and the ACS block-level information for below poverty were logged to allow for a relative comparison. Since there were a number of individuals that had zero years for time at present address, a value of 0.5 was added prior to logging this variable in order to capture individuals with zero years at their residence. This is because the value of zero cannot be log transformed. A similar procedure was conducted for the ACS poverty measure, since some individuals included in the study lived at an address with no poverty. The value of one was added to the poverty measure prior to logging this value.

For our dependent variables, bond amount and days incarcerated were also log transformed to allow for a relative comparison between the different amounts and days. Since there were a number of individuals with zero days incarcerated, we added one to days pretrial and then logged days pretrial in order to capture these individuals in the analysis, since it is not possible to log zero. Logging these variables resulted in more normal distributions prior to inputting the variables in the regression models. Furthermore, the log transformed variables have a meaningful interpretation as percent change.

Several other variables were recoded prior to regression analysis for conceptual purposes and to reduce the number of categories included in the models. For our education variable, we combined individuals that were in trade school with individuals that had some college. For race/ethnicity, we dropped those included in the category of “other” since we had so few individuals in this category ($n=6$). We then created a variable called transient by collapsing individuals that were classified as homeless with those that did not have a fixed address and those that were classified with a living situation of transient, room and board, or hotel

and motel. This resulted in 314 transient individuals (of 2,273 or 13.8 percent). Finally, we divided age by 10 in order to provide an easier interpretation of the regression coefficient, as it reflects the change in the dependent variable for a 10-year change in age rather than a one-year change in age.

In addition, prior to running the models, bivariate analyses between independent variables were evaluated to identify any issues of multicollinearity, or strong relationships between variables. Based on our correlation tests, which will be discussed in more detail in the results section, we found a strong relationship between the ACS variables of income less than \$14,999 and income in the past 12 months below the poverty level, and therefore chose to remove income less than \$14,999 from the analysis.

3.3.3 Results

Participant Demographics

A total of 2,332 pretrial defendants were included in this study. An overview of participant demographics can be found in Table 3.18. The largest group of participants in this study were between the age range of 31 to 40 (31%), followed by 25 to 30 years old (30%), with a mean age of all participants being 36 years old. The vast majority of participants included in this study were male (80%). The largest group of participants in this study had high school and/or GED as their highest level of education (43%), followed by some college (23%), and less than high school (20%). For race and ethnicity, 46 percent of pretrial defendants were African American, followed closely by White with 45 percent. There was a small percentage of Asian and Hispanic individuals included in this study (about 4 percent for both groups). The majority of individuals in this study were single (75%), and nearly half were a parent or guardian to a child. Finally, the vast majority were U.S. citizens (86%).

An overview of poverty proxy characteristic demographics are included in Table 3.19. The majority of individuals in our study were classified as unemployed (56%). In addition, approximately nine percent of our sample were homeless, and approximately 10 percent did not have a fixed address. In terms of living situation, the majority of individuals lived

Table 3.18: Pretrial Defendant Demographics

Characteristic	<i>n</i>	%
Age ^a		
18-24	251	10.8
25-30	688	29.5
31-40	713	30.6
41-50	331	14.2
51-60	262	11.2
61-70	77	3.3
70+	10	0.4
Gender ^a		
Male	1,884	80.8
Female	448	19.2
Education ^b		
Less than high school	469	20.1
High school diploma and/or GED	1,005	43.1
Trade school	91	3.9
Some college	524	22.5
College	189	8.1
Graduate school	52	2.2
Race/Ethnicity ^c		
White	1,082	46.4
African American	1,058	45.4
Asian	95	4.1
Hispanic	90	3.9
Other	6	0.03
Marital Status ^d		
Married	303	13.0
Divorced/Separated/Widowed	288	12.4
Never married	1,732	74.6
Parent/Guardian ^a		
Yes	1,156	49.6
No	1,176	50.4
Citizenship ^e		
U.S. citizen	2,003	86.1
Non-U.S. citizen	324	13.9

^a *n* = 2,332 ^b *n* = 2,330 ^c *n* = 2,331^d *n* = 2,323 ^e *n* = 2,327

Table 3.19: Poverty Proxy Characteristic Demographics

Characteristic	<i>n</i>	%
Employed ^a		
Yes	1,304	55.9
No	1,027	44.1
Homeless ^b		
Yes	213	9.1
No	2,122	90.9
Fixed address ^b		
Yes	2,090	89.6
No	242	10.4
Living situation ^c		
Family/Friend	1,291	55.4
Rent	725	31.1
Own	108	4.6
Transient	61	2.6
Room & Board	5	0.2
Hotel/Motel	13	0.6
Other	126	5.4

^a *n* = 2,331 ^b *n* = 2,332

^c *n* = 2,329

with family or friends (55%), followed by renting (31%), with only 3 percent being classified as transient. For length of time incarcerated (*n*=2,325), roughly 25 percent of individuals in our study lived at their residency for at least 7 years or more (placing them in the 75th percentile), while roughly 50 percent had lived at their residency for 2 years or more (placing them in the 50th percentile), and roughly 75 percent had lived in their residency for 5 months or more (placing them in the 25th percentile).

For the additional ACS variables (*n*=1,796) of unemployment (ages 16 and above), roughly 25 percent of individuals in our study lived in a geographic area or neighborhood with 32 percent unemployment (75th percentile), roughly 50 percent lived in an area with 26 percent unemployment (50th percentile), and roughly 75 percent lived in an area with 20 percent unemployment (25th percentile). For income below the poverty level for the past

12 months, roughly 25 percent of individuals included in this study lived in an area with 16 percent of income below poverty level (75th percentile), roughly 50 percent lived in an area with 7 percent of incomes less than the poverty level (50th percentile), and roughly 75 percent lived in an area with 3 percent of incomes less than the poverty level (25th percentile). For reference purposes, the unemployment rate for the jurisdiction the jail resides in is approximately 5 percent and 6 percent of individuals in this jurisdiction have incomes below the poverty level.

Table 3.20 provides descriptive information on defendant charge and risk information. Approximately 36 percent of individuals had only one charge, followed by 27 percent with two charges. Nearly 15 percent of individuals included in this study had five or more charges, with one individual in our study having 27 charges. The majority of individuals had a felony charge (75%), which is slightly higher than what the Department of Justice reported in their report on Jail Inmates in 2016 (Zeng, 2018), with 70% of inmates having a felony (Zeng, 2018). In addition, the majority of individuals had a criminal history (75%). Additional information on the characteristics that make up the risk assessment score are found in Table 3.20, which includes the eight characteristics of charge type, pending charges, criminal history, two or more failure to appears (FTAs), two or more violent convictions, current residency less than one year, not employed two years and not a primary care giver, and history of drug use. The most common risk score for individuals included in our study was Average (24%), followed by Below Average (22%), and High (22%).

Information on bail process demographics for individuals included in this study are presented in Table 3.21. The majority of individuals included in our study had an initial court decision of receiving a bail or money bail (59%), with the remainder having a no bail decision (41%), although this information was missing for nearly 1,000 individuals in this study, as it was not captured in the PD. More information was captured in the JD for the final bail outcome, with 76 percent of individuals having a money bail as a final outcome and 24 percent receiving no bail. Interestingly, of the 421 individuals that originally had no bail, 328 eventually received a bail or money bail. Conversely, of the 745 that had bail or

Table 3.20: Charge and Risk Demographics ($n=2,332$)

Characteristic	n	%
Number of charges		
1	846	36.2
2	622	26.8
3	330	14.1
4	189	8.0
5+	345	14.8
Charge type		
Misdemeanor	573	24.6
Felony	1,759	75.4
Pending charges		
Yes	34	17.0
No	1,938	83.0
Criminal history		
Yes	1,751	75.1
No	581	24.9
Two or more FTAs		
Yes	329	14.1
No	2,003	85.9
Two or more violent convictions		
Yes	239	10.3
No	2,093	89.7
Current residency less than 1 year		
Yes	774	33.2
No	1,558	66.8
Not employed 2 years/ Not primary caregiver		
Yes	1,320	56.6
No	1,012	43.4
History of drug use		
Yes	771	33.1
No	1,561	66.9
Risk level		
Low	293	12.6
Below Average	511	21.9
Average	561	24.1
Above Average	466	20.0
High	501	21.5

a money bail, 86 eventually had a no bail for their final bail outcome. Of those that had a money bail for their final bail outcome, the majority paid and left (75%), while 23 percent did not pay and remained incarcerated pretrial. There was a small percentage of individuals (2%) that paid but did not get released. For these situations, individuals may pay their money bail, but (knowingly or unknowingly) have a hold on their record and can therefore not be released (e.g. immigration hold, wanted in another jurisdiction). Those that pay knowing they have a hold may pay in an effort to speed up the process of eventually being released (e.g. get sent to other jurisdiction to resolve case), or for personal preferences (e.g. preferring another jurisdiction). Since these cases are less common, we only evaluated those that paid and left and those that did not pay and remained incarcerated in our regression model.

Of those with a money bail, the majority of individuals had a bail amount between the range of \$1,000 and \$5,000 (59%), followed by \$500 to \$1,000 (20%), and \$1 to \$500 (10%). For length of time incarcerated, we found that the largest percentage of individuals were incarcerated for 60 or more days in our sample (29%), followed by 1 to 3 days (26%). Additional demographics on the money bail amount and length of time incarcerated can be found in Table 3.22. In terms of the recommendation given by pretrial services, the most common recommendation included secured bond (money bail) (56%), followed by no bond (no bail) (29%), while no recommendation was provided for about 11 percent of cases. Since we did not include individuals that were released on recognizance, it is not surprising that there was a small percentage of this recommendation (less than 1 percent). An unsecured bond (whereby an individual does not have to provide money in order to be released, but agrees to pay the amount if they do not return for their court dates) was recommended for only about five percent of individuals. Ultimately, however, everyone included in the study had either a no bail (no bond) or money bail (secured bond) decision, despite these pretrial service recommendations.

Table 3.21: Bail Process Demographics

Characteristic	<i>n</i>	%
Initial court decision ^a		
No bail	521	41.3
Money bail	740	58.7
Final bail outcome ^b		
No bail	551	23.6
Money bail	1,781	76.4
Money bail outcome ^c		
Paid and released	1,326	74.5
Did not pay and incarcerated	412	23.1
Paid and incarcerated	43	2.4
Money bail amount ^c		
\$1 to \$500	181	10.3
\$501 to \$1000	337	19.3
\$1,001 to \$5,000	1,033	59.0
\$5,001 to \$10,000	143	8.2
\$10,001 to \$25,000	50	2.9
\$25,001 to \$50,000	7	0.4
Time in jail pretrial ^b		
0 days	339	14.5
1 to 3 days	599	25.7
4 to 7 days	300	12.9
8 to 14 days	168	7.2
15 to 30 days	128	5.5
31 to 60 days	132	5.7
60 + days	666	28.6
Pretrial recommendation ^d		
No bond	665	28.6
Secured bond	1,292	55.6
Unsecured bond	106	4.6
Personal recognizance	17	0.7
No recommendation	245	10.5

^a *n* = 1,261 ^b *n* = 2,332 ^c *n* = 1,781; For those who received a money bail.

^d *n* = 2,325

Table 3.22: Money Bail Amount and Length of Pretrial Incarceration Additional Demographics

Characteristic	<i>M</i>	<i>SD</i>	Percentiles		
			25	50	75
Bail amount(dollars) ^a	3,241	4,462	1,000	2,000	3,500
Length of time incarcerated(days) ^b	65	123	1	7	73

^a *n*=1,751 ^b *n*=2,332

Bivariate Analyses

Important bivariate analyses were analyzed prior to conducting our regression models. First, correlations between our independent variables, both with and without the ACS variables, were analyzed to flag for any issues of collinearity. Both correlation tables are presented in Appendix F and G. As previously mentioned, there was a strong and positive relationship between the ACS variables income below poverty level for past 12 months and income less than \$14,999, so we removed the income less than \$14,999 from our analysis. In looking at the results of our independent variable correlations for variables of interest in Appendix F, we see there is a small and negative strength of association between transience and being employed ($r=-0.14$) and transience and length of time at residence (logged) ($r=-0.17$). In looking at risk level, we see a small and negative strength of association between being employed ($r=-0.22$), length at residence (logged) ($r=-0.16$), being White ($r=-0.14$), and a positive and small strength of association for U.S. citizenship ($r=0.25$). In looking at the correlation table including the ACS variables, we see a small and negative strength of association between income below poverty for past 12 months and White ($r=-0.23$), and trade/some college ($r=-0.13$).

Correlations were also evaluated between our independent and dependent variables, with and without ACS variables. The full results are presented in Appendix H and I. For the initial court decision (0=No bail, 1=Money bail), we see a small and negative strength of association between risk level ($r=-0.13$) and being a U.S. citizen ($r=-0.10$). For the final bail

outcome (0=No bail, 1=Money bail), we also see a small and negative strength of association for risk level ($r=-0.12$). For the money bail outcome (0=No pay, 1=Pay), we see a small and negative strength of association for being transient ($r=-0.12$), risk level ($r=-0.14$), and age ($r=-0.11$), and a small and positive strength of association for employment ($r=0.12$). For the money bail amount (logged), there is a small and negative relationship between never being married and bail amount ($r=-0.10$). Finally, for length of pretrial incarceration (logged) we see a small and negative strength of association for being employed ($r=-0.12$) and a small and positive strength of association for risk level ($r=0.25$) and being male ($r=0.10$). Our results stay consistent with the inclusion of the ACS variables, although the coefficients become smaller.

Regressions models

We present two models for each of our five dependent variables, one with the ACS variables and one without. Ultimately, however, the ACS variables explained very little and their explanatory power was close to zero. Although some coefficients changed once introducing these variables to the model, we attribute this change to the drop in sample size, given the lack of variance explained by the ACS variables. We will therefore focus our results based on the models without the ACS variables, although both models will be presented.

For the poverty proxy characteristics of transient and unemployed, these individuals were compared to non-transient and employed individuals. Within the defendant characteristics, males were compared to females, all individual race/ethnicity groups were compared to White, and education levels were compared to less than high school. For marital status, this group was compared to married, has children was compared to those that did not have children, and U.S. citizen was compared to non-U.S. citizen.

The pretrial and legal characteristics were included in the model in the form of the overall risk level for each individual, based on the eight factors that make up the risk score. Although risk level is an ordinal scale (below average, average, etc.), for ease of interpretation, we treat risk level as an interval variable in the model. While there could be concern that some of

the poverty proxy characteristics are also included in the risk score, which would result in double counting these poverty variables in the regression models, upon closer inspection we see this is not a major concern. First, the risk assessment does not include a direct measure of employment, transience, or overall length of time at residence. The only measures in the risk assessment related to these measures includes current residency less than one year and not employed for 2 years/not a primary caregiver. Second, in evaluating risk level and the poverty proxy variables in our independent variable correlation table, we do not see any strong relationships between these variables and the risk level which could cause concern for their combined inclusion in the regression models. As a result, it is appropriate to include the poverty proxy variables separately in addition to the risk level.

Table 3.23 provides the results of the logistic regression for the initial court decision. Overall, the model was statistically significant ($\text{Pseudo-}R^2 = .0224, LR\chi^2 = 37.01, p = .0034$). Logistic regression analysis revealed that risk level significantly predicted the initial court decision of receiving a money bail compared to not receiving a bail. Therefore, for every 1 unit increase in risk level, the odds of receiving a money bail decrease by 23 percent. Risk level is the only variable that appears to be driving this initial court decision. Table 3.24 presents the results of the logistic regression for the initial court decision including the ACS variables, with risk also being the strongest variable driving the model. However, there is still a lot left to be explained for this decision, as the explanatory power of this model is relatively small (about 2%).

Table 3.25 presents the results of the logistic regression for the final bail outcome of receiving a money bail or no bail. This outcome was based on the information that appeared on an individual's jail record at the end of their pretrial incarceration. The model for this decision was statistically significant ($\text{Pseudo-}R^2 = .0303, LR\chi^2 = 74.33, p \leq .001$). In this model, we see that transient status, risk level, age and being male are driving the model. Compared to non-transients, the odds of receiving a bail pretrial decrease by 38 percent for transient individuals. In addition, the odds of receiving a bail also decrease by about one third for males compared to females. For every one unit increase in risk level, the odds of

Table 3.23: Logistic Regression for Initial Court Decision^a($n=1,222$)

Variable	Odds Ratio	95% CI		<i>z</i>	<i>p</i>
		Lower	Upper		
<i>Poverty proxy characteristics</i>					
Transient	0.96	0.68	1.35	-0.22	0.823
Unemployed	1.10	0.86	1.40	0.74	0.460
Length of time at residence (yrs logged)	0.97	0.90	1.05	-0.73	0.463
<i>Pretrial/legal characteristics</i>					
Risk level	0.77***	0.70	0.86	-5.02	0.000
<i>Defendant characteristics</i>					
Age (divided by 10)	1.07	0.94	1.02	1.04	0.299
Male	0.85	0.62	1.16	-1.02	0.308
Race/Ethnicity					
African American	1.17	0.91	1.50	1.23	0.219
Asian	1.56	0.78	3.12	1.25	0.210
Hispanic	0.55	0.28	1.11	-1.67	0.096
Education					
High school/GED	0.99	0.72	1.36	-0.07	0.942
Trade/Some college	0.88	0.62	1.25	-0.70	0.482
College	0.87	0.52	1.44	-0.55	0.585
Graduate	0.52	0.22	1.22	-1.50	0.133
Marital status					
Divorced/separated/widowed	1.25	0.77	2.03	0.90	0.368
Never married	1.33	0.90	1.98	1.43	0.152
Has children	1.11	0.86	1.43	0.80	0.426
U.S. Citizen	1.11	0.76	1.63	0.53	0.595

^a 0=No bail, 1=Money bail* $p \leq .05$, ** $p \leq .01$, *** $p \leq .001$ LR χ^2 (17)=37.01, $p = .0034$, Pseudo- $R^2=.0224$

Table 3.24: Logistic Regression for Initial Court Decision including American Community Survey Variables^a ($n= 907$)

Variable	Odds Ratio	95% CI		<i>z</i>	<i>p</i>
		Lower	Upper		
<i>Poverty proxy characteristics</i>					
Transient	1.13	0.73	1.75	0.54	0.588
Unemployed	1.05	0.79	1.40	0.36	0.717
Length of time at residence (yrs logged)	0.97	0.88	1.06	-0.72	0.474
<i>American Community Survey</i>					
Block-level unemployment (%)	1.01	0.99	1.02	0.94	0.348
Block-level below poverty (% logged)	1.05	0.91	1.22	0.71	0.476
<i>Pretrial/legal characteristics</i>					
Risk level	0.80***	0.71	0.89	-3.85	0.000
<i>Defendant characteristics</i>					
Age (divided by 10)	1.09	0.95	1.25	1.20	0.228
Male	1.03	0.71	1.49	0.13	0.896
Race/Ethnicity					
African American	1.38*	1.02	1.86	2.09	0.037
Asian	1.48	0.65	3.37	0.94	0.350
Hispanic	0.64	0.30	1.35	-1.17	0.241
Education					
High school/GED	1.08	0.74	1.58	0.39	0.697
Trade/Some college	0.98	0.64	1.49	-0.11	0.915
College	0.88	0.49	1.58	-0.42	0.672
Graduate	0.56	0.21	1.53	-1.13	0.261
Marital status					
Divorced/separated/widowed	1.28	0.73	2.24	0.87	0.384
Never married	1.47	0.92	2.34	1.63	0.104
Has children	1.21	0.89	1.64	1.24	0.214
U.S. Citizen	1.02	0.65	1.62	0.11	0.915

^a 0=No bail, 1=Money bail

* $p \leq .05$, ** $p \leq .01$, *** $p \leq .001$

LR χ^2 (19)=29.11, $p = .0642$, Pseudo- R^2 =.0236

receiving a bail decrease by 18 percent. Finally, we see that as individuals get older, they are less likely to receive a bail. As age increases by 10 years (or a decade), the odds of receiving a bail decrease by 12 percent. Table 3.26 provides the results of the logistic regression for final bail outcome including the ACS variables. In this model, we see that risk, transient status, and age are also driving the model, with similar results for the size and direction for these variables' coefficients. However, as with the initial decision, there is still a lot left to be explained for this decision, as the explanatory power of this model is relatively small (about 3%).

In order to better interpret the finding that transients are less likely to receive a money bail as a final bail outcome, an additional bivariate analysis for transient status and risk level was conducted. In doing this, we also see a statistically significant relationship between being transient status and risk level, with transient individuals having higher risk levels. In conducting bivariate analyses within each of the factors that make up the risk assessment, we also see statistically significant relationships between being transient and criminal history, residency less than 1 year, not being employed for 2 years and/or being the primary caregiver, and history of drug use. It is therefore potentially possible that some of the factors related to being transient can also lead to an increase in risk for some individuals, resulting in no bail. Having a higher risk level does indicate a reason why transient individuals may be more likely to receive a no bail.

The results of our logistic regression for the money bail outcome, or whether an individual with a money bail paid or did not pay, are provided in Table 3.27. Overall, the model was statistically significant (Pseudo- $R^2 = .0647$, $LR\chi^2 = 121.00$, $p \leq .001$). First, in terms of our poverty proxy variables, we see that all of these variables are contributing to whether someone posts their bail or not. The odds of a transient individual posting their bail compared to a non-transient is almost half, while the odds of an unemployed individual are nearly a third compared to an employed individual. Interestingly, however, for each doubling of the length of time at residence, the odds of posting decreases by 5.6 percent. The effect, however, is small.

Table 3.25: Logistic Regression for Final Bail Outcome^a ($n=2,245$)

Variable	Odds Ratio	95% CI		<i>z</i>	<i>p</i>
		Lower	Upper		
<i>Poverty proxy characteristics</i>					
Transient	0.62***	0.47	0.82	-3.40	0.001
Unemployed	0.97	0.78	1.20	-0.31	0.759
Length of time at residence (yrs logged)	1.00	0.94	1.07	0.12	0.906
<i>Pretrial/legal characteristics</i>					
Risk level	0.82***	0.76	0.90	-4.46	0.000
<i>Defendant characteristics</i>					
Age (divided by 10)	0.88**	0.79	0.97	-2.59	0.009
Male	0.71**	0.53	0.93	-2.46	0.014
Race/Ethnicity					
African American	1.14	0.91	1.41	1.15	0.252
Asian	1.20	0.63	2.08	0.69	0.528
Hispanic	0.65	0.39	1.06	-1.72	0.086
Education					
High school/GED	1.24	0.95	1.61	1.57	0.117
Trade/Some college	1.23	0.91	1.65	1.34	0.182
College	1.51	0.97	2.37	1.81	0.070
Graduate	2.30	0.93	5.65	1.81	0.070
Marital status					
Divorced/separated/widowed	1.16	0.78	1.74	0.73	0.463
Never married	0.97	0.70	1.35	-0.17	0.863
Has children	0.99	0.80	1.24	-0.05	0.957
U.S. Citizen	1.11	0.79	1.54	0.59	0.553

^a 0=No bail, 1= Money bail* $p \leq .05$, ** $p \leq .01$, *** $p \leq .001$ LR $\chi^2(17)=74.33$, $p \leq .001$, Pseudo- $R^2 = .0303$

Table 3.26: Logistic Regression for Final Bail Outcome Including American Community Survey Variables^a ($n=1,731$)

Variable	Odds Ratio	95% CI		<i>z</i>	<i>p</i>
		Lower	Upper		
<i>Poverty proxy characteristics</i>					
Transient	0.63**	0.45	0.88	-2.71	0.007
Unemployed	0.90	0.71	1.15	-0.82	0.410
Length of time at residence (yrs logged)	1.02	0.94	1.10	0.44	0.661
<i>American Community Survey</i>					
Block-level unemployment (%)	1.01	1.00	1.02	1.33	0.183
Block-level below poverty (% logged)	1.11	0.96	1.26	1.72	0.085
<i>Pretrial/legal characteristics</i>					
Risk level	0.81***	0.74	0.89	-4.27	0.000
<i>Defendant characteristics</i>					
Age (divided by 10)	0.86***	0.76	0.96	-2.71	0.007
Male	0.80	0.58	1.10	-1.39	0.165
Race/Ethnicity					
African American	1.19	0.92	1.53	1.32	0.186
Asian	1.05	0.57	2.00	0.17	0.866
Hispanic	0.69	0.40	1.18	-1.36	0.172
Education					
High school/GED	1.17	0.86	1.60	0.99	0.320
Trade/Some college	1.32	0.93	1.88	1.55	0.122
College	1.59	0.94	2.68	1.72	0.085
Graduate	1.87	0.74	4.77	1.32	0.188
Marital status					
Divorced/separated/widowed	1.16	0.73	1.83	0.63	0.528
Never married	0.84	0.58	1.23	-0.88	0.377
Has children	0.94	0.73	1.21	-0.50	0.614
U.S. Citizen	1.25	0.86	1.81	1.61	0.247

^a 0=No bail, 1=Money bail

* $p \leq .05$, ** $p \leq .01$, *** $p \leq .001$

LR χ^2 (19)=66.36, $p \leq .001$, Pseudo- $R^2=.0348$

Table 3.27: Logistic Regression for Paying Money Bail^a ($n= 1,674$)

Variable	Odds Ratio	95% CI		<i>z</i>	<i>p</i>
		Lower	Upper		
<i>Poverty proxy characteristics</i>					
Transient	0.51***	0.36	0.71	-3.96	0.000
Unemployed	0.66***	0.52	0.85	-3.26	0.001
Length of time at residence (yrs logged)	0.92*	0.85	0.99	-2.17	0.030
<i>Pretrial/legal characteristics</i>					
Risk level	0.82***	0.74	0.90	-3.94	0.000
<i>Defendant characteristics</i>					
Age (divided by 10)	0.78***	0.69	0.87	-4.26	0.000
Male	0.62**	0.45	0.85	-2.98	0.003
Race/Ethnicity					
African American	1.43**	1.11	1.84	2.76	0.006
Asian	2.07	0.97	4.44	1.88	0.060
Hispanic	2.01	0.91	4.47	1.72	0.086
Education					
High school/GED	1.16	0.85	1.60	0.92	0.356
Trade/Some college	1.44*	1.01	2.06	1.99	0.047
College	1.96**	1.13	3.37	2.41	0.016
Graduate	1.09	0.48	2.48	0.19	0.844
Marital status					
Divorced/separated/widowed	0.69	0.42	1.13	-1.48	0.140
Never married	0.56**	0.36	0.85	-2.69	0.007
Has children	0.94	0.73	1.22	-0.45	0.656
U.S. Citizen	0.91	0.60	1.39	-0.42	0.671

^a 0=No pay, 1=Pay* $p \leq .05$, ** $p \leq .01$, *** $p \leq .001$ LR χ^2 (17)=121.00, $p = 0.000$, Pseudo- R^2 =0.0647

Table 3.28: Logistic Regression for Paying Money Bail Including American Community Survey Variables^a ($n=1,280$)

Variable	Odds Ratio	95% CI		<i>z</i>	<i>p</i>
		Lower	Upper		
<i>Poverty proxy characteristics</i>					
Transient	0.72	0.47	1.10	-1.52	0.128
Unemployed	0.70**	0.53	0.93	-2.48	0.013
Length of time at residence (yrs logged)	0.95	0.87	1.04	-1.15	0.251
<i>American Community Survey</i>					
Block-level unemployment (%)	0.99	0.98	1.01	-0.90	0.369
Block-level below poverty (% logged)	1.07	0.93	1.23	0.91	0.361
<i>Pretrial/legal characteristics</i>					
Risk level	0.86**	0.77	0.96	-2.65	0.008
<i>Defendant characteristics</i>					
Age (divided by 10)	0.82**	0.72	0.94	-2.86	0.004
Male	0.58**	0.40	0.85	-2.81	0.005
Race/Ethnicity					
African American	1.26	0.95	1.71	1.60	0.110
Asian	2.05	0.82	5.12	1.54	0.124
Hispanic	2.42	0.95	5.99	1.91	0.057
Education					
High school/GED	1.05	0.72	1.52	0.24	0.810
Trade/Some college	1.31	0.87	1.99	1.28	0.200
College	1.73	0.92	3.26	1.70	0.088
Graduate	1.04	0.40	2.67	0.08	0.938
Marital status					
Divorced/separated/widowed	0.67	0.38	1.17	-1.40	0.160
Never married	0.51**	0.31	0.84	-2.65	0.008
Has children	0.87	0.64	1.16	-0.95	0.340
U.S. Citizen	1.01	0.63	1.63	0.05	0.964

^a 0=No pay, 1=Pay

* $p \leq .05$, ** $p \leq .01$, *** $p \leq .001$

LR χ^2 (19)=64.95, $p \leq .001$, Pseudo- R^2 =0.0461

We also see a number of legal and defendant characteristics contributing to this model. With every one unit increase in risk level, an individual's odds of posting bond decrease by 18 percent. For age, we see that for every decade increase in age, an individual's odds of posting their bond decrease by 8 percent. Males are also less likely to pay their bail compared to females, with their odds decreasing by 38 percent. For African Americans compared to Whites, the odds of paying their money bail increases by 43 percent. Individuals with higher levels of education also appear more likely to pay their bail. For trade/some college, the odds of posting compared to someone with a less than high school education increases by 44 percent, while an individual with a college education is almost twice as likely to pay. Finally, the odds of paying their money bail for individuals that never married is decreased by half compared to married individuals. This model does a better job explaining the money bail outcome decision compared to the prior models, with an explanatory power of about six percent.

Table 3.28 presents the results including the ACS variables. We see some changes in this model. Unemployment status, length of time at residence, risk level, age, being male, and never married have similar results in this model for the the size and direction of these variables' coefficients, with being unemployed, risk level, age, being male and never married remaining statistically significant. However, the odds of posting as a result of being transient increase slightly (from half to approximately a third), while the odds of posting as a result of being African American, having trade/some college and college education decrease slightly, although none of these variables remain statistically significant in this model. This model also does a slightly worse job explaining the money bail outcome decision compared to the model not including the ACS variables (4.6%).

One of the results in these models that was surprising to us was that African American individuals were more likely to pay their money bail compared to White individuals, based on previous research findings indicating the opposite (Schlesinger, 2005; Demuth, 2003; Demuth & Steffensmeier, 2004). However, this prior research did not include the poverty proxy information included in this analysis, arguably important variables to analyze in

conjunction with race. Prior to including these variables in our regression model, we see that African American defendants are slightly more likely to pay their bail (76%) than White defendants (75%). Furthermore, the simple bivariate relationship is in the expected direction. Examining other variables in the model, we find that there is a relationship between race and risk level, whereby African Americans have higher risk levels compared to White individuals. African Americans are also more likely to be unemployed and more likely to be transient compared to White individuals as well. In addition, we find that as risk level increases likelihood of posting decreases. However, based on our sample in the current jurisdiction, a similarly situated African American (i.e., equal risk level, transient status, employment, etc.) is more likely to pay his or her bail than a White individual.

Table 3.29 presents the results of the OLS regression for the money bail amount for those that received a bail. It is important to note that the money bail amount was log transformed, meaning that for a one-unit change in the independent variable, we expect a percent change in the bond amount equal to the regression coefficient multiplied by 100. For a logged independent variable, the interpretation is an elasticity, that is, the coefficient multiplied by 100 reflects the percent change in the dependent variable for a one percent change in the independent variable when the independent variable is logged. We found that the model was statistically significant ($R^2 = 0.0337$, $F(17, 1669) = 3.43$, $p \leq .001$). We see that transient status, risk level, being male and never married are driving this model. We found that transient-status individuals pay 20 percent less than non-transients. In addition, those that have never been married pay 23 percent less than those that are married. Male individuals pay 14 percent more than females, and with every one unit increase in risk level, individuals pay five percent more. Table 3.30 presents the findings from the model including the ACS variables, with similar variables driving this model. The coefficient for transient status increases, however, with transient-status individuals paying 30 percent less than non-transient individuals in this model, although the size and direction for the other coefficients stays relatively the same in this model, and all remain statistically significant. The variables of being unemployed and being African American are statistically significant in

Table 3.29: OLS Regression for Money Bail Amount (logged) ($n=1,687$)

Variable	B	SE	<i>t</i>	<i>p</i>
<i>Poverty proxy characteristics</i>				
Transient	-0.20**	0.073	-2.76	0.006
Unemployed	-0.08	0.049	-1.68	0.094
Length of time at residence (yrs logged)	0.01	0.015	0.51	0.610
<i>Pretrial/legal characteristics</i>				
Risk level	0.05**	0.019	2.76	0.006
<i>Defendant characteristics</i>				
Age (divided by 10)	0.00	0.024	0.00	0.999
Male	0.14**	0.057	2.45	0.014
Race/Ethnicity				
African American	-0.07	0.049	-1.35	0.176
Asian	0.01	0.116	0.10	0.922
Hispanic	0.15	0.132	1.15	0.249
Education				
High school/GED	0.05	0.064	0.72	0.479
Trade/Some college	0.13	0.07	1.86	0.063
College	0.13	0.097	1.39	0.165
Graduate	0.16	0.155	1.07	0.288
Marital status				
Divorced/separated/widowed	-0.16	0.092	-1.74	0.081
Never married	-0.23**	0.075	-3.11	0.002
Has children	0.09	0.051	1.67	0.095
U.S. Citizen	0.00	0.077	0.06	0.951

B=Unstandardized coefficient, SE=Standard error;

* $p \leq .05$, ** $p \leq .01$, *** $p \leq .001$ F(17, 1669)=3.43, $p = 0.000$, $R^2=0.0337$

this model, with both groups receiving lower bail amounts compared to employed and White individuals, which was also indicated in the prior model. The ACS model does a slightly better job explaining for money bail amount decision compared to the model without these variables (5% vs. 3%), although there is still a lot left to be explained for this decision.

Our final OLS regression evaluated the length of time incarcerated pretrial and is presented in Table 3.31. As with the prior model, the dependent variable of days incarcerated pretrial was log transformed. This model was statistically significant ($R^2 = .0820$, $F(17, 2198) = 11.55$, $p \leq .001$). We see that employment status, risk level,

Table 3.30: OLS Regression for Money Bail Amount (logged) Including American Community Survey Variables ($n=1,303$)

Variable	B	SE	t	p
<i>Poverty proxy characteristics</i>				
Transient	-0.30***	0.089	-3.36	0.001
Unemployed	-0.12*	0.055	-2.21	0.027
Length of time at residence (yrs logged)	0.02	0.017	0.91	0.363
<i>American Community Survey</i>				
Block-level unemployment (%)	-0.00	0.003	-1.18	0.239
Block-level below poverty (% logged)	0.02	0.027	0.75	0.454
<i>Pretrial/legal characteristics</i>				
Risk level	0.07***	0.021	3.33	0.001
<i>Defendant characteristics</i>				
Age (divided by 10)	-0.00	0.027	-0.08	0.933
Male	0.19**	0.066	2.82	0.005
Race/Ethnicity				
African American	-0.15**	0.057	-2.55	0.011
Asian	0.03	0.134	0.20	0.841
Hispanic	0.11	0.142	0.83	0.409
Education				
High school/GED	0.04	0.074	0.59	0.555
Trade/Some college	0.11	0.080	1.32	0.185
College	0.08	0.111	0.75	0.454
Graduate	0.09	0.174	0.51	0.312
Marital status				
Divorced/separated/widowed	-0.09	0.101	-0.85	0.397
Never married	-0.22**	0.084	-2.56	0.011
Has children	0.10	0.06	1.64	0.101
U.S. Citizen	0.11	0.09	1.27	0.206

B=Unstandardized coefficient, SE=Standard error;

* $p \leq .05$, ** $p \leq .01$, *** $p \leq .001$

F(19, 1283)=3.65, $p \leq .001$, $R^2=0.0512$

Table 3.31: OLS Regression for Length of Time Incarcerated Pretrial (days logged) ($n=2,216$)

Variable	B	SE	<i>t</i>	<i>p</i>
<i>Poverty proxy characteristics</i>				
Transient	0.19	0.117	1.62	0.105
Unemployed	0.30***	0.083	3.58	0.000
Length of time at residence (yrs logged)	0.01	0.026	0.57	0.566
<i>Pretrial/legal characteristics</i>				
Risk level	0.32***	0.033	9.71	0.000
<i>Defendant characteristics</i>				
Age (divided by 10)	0.06	0.041	1.52	0.129
Male	0.43***	0.101	4.28	0.000
Race/Ethnicity				
African American	-0.09	0.085	-1.02	0.309
Asian	-0.13	0.207	-0.63	0.529
Hispanic	-0.25	0.22	-1.13	0.259
Education				
High school/GED	-0.06	0.108	-0.56	0.573
Trade/Some college	-0.19	0.12	-1.56	0.119
College	-0.22	0.17	-1.29	0.198
Graduate	0.09	0.282	0.31	0.757
Marital status				
Divorced/separated/widowed	0.04	0.158	0.23	0.817
Never married	0.14	0.13	1.07	0.285
Has children	0.16	0.087	1.85	0.064
U.S. Citizen	-0.16	0.13	-1.26	0.209

B=Unstandardized coefficient, SE=Standard error

* $p \leq .05$, ** $p \leq .01$, *** $p \leq .001$

F(17, 2198)=11.55, $p \leq .001$, $R^2=0.0820$

Table 3.32: OLS Regression for Length of Time Incarcerated Pretrial (days logged) Including American Community Survey Variables ($n=1,709$)

Variable	B	SE	<i>t</i>	<i>p</i>
<i>Poverty proxy characteristics</i>				
Transient	0.07	0.146	0.47	0.640
Unemployed	0.30***	0.096	3.18	0.001
Length of time at residence (yrs logged)	-0.01	0.030	-0.28	0.777
<i>American Community Survey</i>				
Block-level unemployment (%)	0.00	0.005	0.35	0.727
Block-level below poverty (% logged)	-0.06	0.048	-1.21	0.23
<i>Pretrial/legal characteristics</i>				
Risk level	0.32***	0.038	8.51	0.000
<i>Defendant characteristics</i>				
Age (divided by 10)	0.05	0.046	1.02	0.306
Male	0.50***	0.120	4.14	0.000
Race/Ethnicity				
African American	-0.15	0.101	-1.54	0.124
Asian	-0.29	0.244	-1.17	0.242
Hispanic	-0.37	0.237	-1.56	0.119
Education				
High school/GED	-0.01	0.127	-0.04	0.965
Trade/Some college	-0.22	0.141	-1.56	0.120
College	-0.16	0.200	-0.78	0.436
Graduate	0.17	0.322	0.52	0.600
Marital status				
Divorced/separated/widowed	0.01	0.179	0.04	0.964
Never married	0.16	0.149	1.08	0.278
Has children	0.21*	0.101	2.12	0.034
U.S. Citizen	-0.23	0.152	-1.53	0.126

B=Unstandardized coefficient, SE=Standard error

* $p \leq .05$, ** $p \leq .01$, *** $p \leq .001$

$F(19, 1689)=8.04$, $p \leq .001$, $R^2=0.0829$

and being male are driving this model. As with the previous OLS model, the outcome variable of length of time incarcerated was also log transformed. Unemployed individuals are incarcerated 30 percent longer than employed individuals. In addition, for every one unit increase in risk level, an individual is incarcerated 32 percent more. Finally, males are incarcerated 43 percent longer than females. We see similar results with the inclusion of the ACS variables, as shown in Table 3.32, with similar coefficients and statistical significance for being unemployed, risk level, and being male. In the ACS model, however, having children becomes statistically significant and the coefficient increases slightly. These models do the best job of all the models evaluated in this dissertation for explaining for the length of time incarcerated pretrial, with both models explaining for approximately eight percent of this decision.

3.3.4 Discussion

The focus of the present study was to evaluate the impact of poverty on a number of decisions and outcomes that take place throughout the pretrial process. The impact of poverty at this stage in the criminal justice system has been emphasized by recent reform efforts encouraging the abolition of money bail, as well as the use of PRAIs, both with the goal of reducing over-incarceration in jails, especially of low-risk individuals that may not be able to afford their money bail. Despite this, research explicitly evaluating the impact of poverty on pretrial decisions and outcomes remains limited. We therefore aimed to evaluate whether poverty impacts the initial court decision and final bail outcome, the outcome for those that have money bail, the money bail amount, and the length of time incarcerated pretrial. Although there is a lot left to be explained for the decisions in many of our models, as the explanatory power was modest, they did identify some factors that help explain these decisions, which is a valuable contribution.

Overall, our findings illustrate the impact poverty has on the pretrial process in a number of ways. We ultimately found a relationship between poverty and the final bail outcome (money bail or no bail), the money bail outcome (pay or don't pay), the bail amount,

and the length of time incarcerated pretrial, supporting each of our hypotheses for these outcomes. We did not, however, find a relationship between poverty and the initial bail decision, and therefore did not find support for the hypothesis for this outcome.

For the initial court decision, risk was the main driver of this decision. This finding is consistent with previous research on the pretrial release decision-making process, indicating that legal factors were the strongest determinant for who gets bail or no bail (Gottfredson & Gottfredson, 1988; Demuth, 2003; Demuth & Steffensmeier, 2004; Schlesinger, 2005; Wooldredge et al., 2017). However, with the final bail outcome, or the ultimate outcome indicated at the end of one's pretrial detention, we see that in addition to risk, being transient, age, and being male also impacted this decision. For this outcome, we saw that transient individuals were almost 40 percent more likely to get no bail compared to non-transient individuals.

It is also interesting to note the changes from the initial court decision to the final bail outcome. One potential and simple explanation for this change is the smaller sample size from the initial model compared to the final model. The initial court decision was provided in the pretrial database, and was an optional field, resulting in missing data for more than 1,000 individuals in this study. However, as the final decision came from the jail database, where they must capture bail and release information on all individuals housed in their facility, this information was available for all individuals in our study. Another possible explanation for this change is that over time, the influence of risk may decrease the further one gets from the initial decision, making room for other potential factors to impact bail decisions. In other words, over time, poverty may become more relevant to the decision of whether an individual receives bail or not.

Two models in our regression analysis only evaluated those individuals that received a money bail. For the first model, we found that transient status and unemployed individuals were significantly less likely to pay their money bail and therefore remain detained pretrial (by a half and a third respectively), compared to non-transient and employed individuals. In addition, as length of time at residence increased, the likelihood of posting decreased, although the coefficient was not large. However, we would have expected the opposite

to occur in relation to this poverty proxy variable, notably that less time at a residence (i.e. more transient) would lead to a decreased likelihood of posting bail. However, as the coefficients are much larger for the other poverty proxy variables of transient status and unemployment, arguably these factors do a better job representing the impact of poverty for this decision. Also in this model, we see that individuals that have never been married are considerably less likely to pay their bail. This could also arguably be representative of a poverty proxy variable, as research indicates that poor individuals marry less than nonpoor individuals (Sawhill & Haskins, 2003). We also see that those with trade/some college and college educated individuals are much more likely to post their bail compared to individuals with less than high school education. We also know that individuals with no high school diploma are more likely to be in poverty compared to those with some college, bachelor's or higher education (Proctor, Semega, & Kollar, 2016). These findings also shed light on the potential impact poverty has on posting bail based on these additional factors.

We see in the next regression model evaluating the bail amount, however, that transient individuals in fact do receive smaller money bail amounts (by about 20 percent compared to non-transients), as do unemployed individuals (although this finding was not statistically significant). A similar result was found by (M. Sacks et al., 2015), notably that being assigned a public defender (a proxy they used to represent low socioeconomic status) resulted in a pretrial defendant receiving the lowest bail set range (\$0-5,000). In addition, individuals that never married also received lower amounts compared to married individuals in our study. Ultimately, in evaluating the results from the bail amount and plans to pay models together, we see that despite transient and unemployed individuals receiving lower money bail, they are still less likely to pay compared to non-transient and employed individuals. While it appears that ability to pay may be taken into consideration, as their bail amounts are in fact lower, these results nevertheless indicate that these individuals are still considerably less likely to pay their money bail. Even with lower bail amounts compared to their counterparts, these individuals conceivably may still not be able to afford the amounts set for them.

The final model included in this study evaluated the length of time incarcerated pretrial for all detained defendants. Here we see that unemployed individuals are incarcerated 30 percent longer than employed individuals. Taken together, we see that poverty has the potential to impact many of the decisions and outcomes that occur during the pretrial stage. Poverty appears to impact the final outcome, in terms of whether an individual receives bail or not, whether an individual is likely to pay their bail or not, despite receiving lower bail amounts, and finally, the length of time an individual is incarcerated pretrial.

Ultimately, it is important to note that risk level was a driver in each of our regression models, although to varying degrees. This is not altogether surprising, and advocates of using PRAI would conceivably argue this is what we would want to see happening. However, our findings also indicate that extralegal poverty proxy variables and other defendant characteristics are still impacting these decisions and outcomes in important ways. In other words, when decision-makers are making pretrial decisions (who to release, who to give bail to, how much, etc.), we see that they are not just accounting for risk (as well as offense severity, danger, and practical constraints and consequences), but are also making a perceptual shortcut about whether individuals will show up for court and/or commit future crime while on pretrial release (Hartley, Maddan, & Spohn, 2007). It is inevitable that additional extralegal factors related to poverty (e.g. being transient, unemployed, poor) may stigmatize these individuals, thus influencing these decision-makers.

The results of our study have real policy implications. The jurisdiction included in this study uses a pretrial risk assessment instrument (PRAI). While current reform efforts encourage the use of PRAI in guiding bail decisions, our results highlight that despite their use, additional factors beyond a PRAI may still lead to the pretrial detention of poor defendants, or setting of financial bail amounts that are potentially unattainable. A similar concern was highlighted by (Alexander, 2018), who noted that PRAIs may lead to the presumption of detention as opposed to release, and may be inherently biased. Future research should therefore continue to evaluate whether and how risk assessments impact financially disadvantaged or poor defendants. In particular, for jurisdictions continuing to use financial

conditions of release, assessing ability to pay in conjunction with risk assessments seems warranted. Arguably, the elimination of requiring money for pretrial release, another pretrial reform strategy, would help reduce some of these challenges. It is also important to note that additional legal restraints, including certain charges that result in a rebuttable presumption against bail, may make it difficult, if not impossible, for certain individuals to be released on bail, regardless of what a risk assessment concludes. Future pretrial research should also aim to include what Reitler, Sullivan, and Frank (2013) refer to as “neglected measures of legal factors,” including detention laws (p. 341).

This study also helps fill gaps in the pretrial literature by explicitly evaluating elements of poverty alongside important pretrial decisions and outcomes. Prior research analyzing similar outcomes often evaluated the State Court Processing Statistics (SCPS), which does not include socioeconomic status or poverty measures (Schlesinger, 2005; Demuth, 2003; Demuth & Steffensmeier, 2004), or evaluated data with the proxy poverty variable of court representation (M. Sacks et al., 2015). While we were hoping to analyze additional poverty factors such as income and government assistance, this data was missing for the majority of individuals included in our study. While obtaining data that includes income and poverty appears to be difficult for this population and stage in the criminal justice system, researchers are continuing to explore additional ways to capture financial information within pretrial research. For example, Dobbie et al. (2018) included administrative court and tax records to estimate the impact of pretrial detention on case outcomes, future crime, formal sector employment, and the receipt of government benefits. In addition, Vîlcică and Goldkamp (2015) evaluated socioeconomic status through an analysis of neighborhood context. Future pretrial research should continue to explore avenues to evaluate poverty and socioeconomic status in relation to the pretrial process.

Limitations

There are a number of limitations to this study that warrant discussion. One limitation of our study is that it included a single jurisdiction, and the results should therefore be

interpreted with this in mind. While we cannot be confident in terms of the generalizability of our results, this jurisdiction’s pretrial system functions similar to many others throughout the country. In addition, this jurisdiction uses a PRAI, which is what pretrial reform efforts are encouraging in the “third wave” of bail reform (Schnacke, 2014a). Implications are therefore likely to apply to other similarly situated and structured jurisdictions.

Another limitation of our study is our poverty measures. While we were hoping to gain more insight on poverty through the income and government assistance measures listed in the PD, this information was almost entirely missing, potentially due to the fact that they were optional fields for staff to input. Pretrial services should be encouraged to capture income-related data so that researchers can better analyze issues related to poverty and wealth in pretrial decision-making. These are arguably important measures that should be evaluated as the topic of money bail continues to be a focus of reform efforts. In addition, two of the poverty proxy variables used in our models were dichotomous measures (transient vs. non-transient, employed vs. unemployed), with Oakes (2012) noting that SES measures evaluated in this way often sacrifice precision and may be biased. The third poverty proxy measure, length of time at residence, did not contribute much to the models, and for the model that it did, it was in the opposite anticipated direction. It is possible that this measure is not appropriate for the evaluation of poverty. Finally, it is important to note that our poverty proxy measures are not direct measures of poverty, and being transient or unemployed are not necessarily indicative of being in poverty. However, given these variables’ clear relationship with poverty, they provide meaningful information on the impact of poverty on these pretrial decisions.

In addition, in an effort to provide additional information on poverty and the neighborhoods defendant’s reside in, we attempted to use geocoded address data to connect block-level data to ACS poverty, unemployment, and income related variables. However, these variables did not meaningfully contribute to our models. In addition, given an address is required to be geocoded, we were missing data on individuals that did not have an exact

address, which was problematic for those without a fixed address. While we geocoded specific shelters, if they were listed, this was also not an ideal representation of an individual's poverty status. As a result, the more direct measures of transience and unemployment were able to contribute more to the analysis.

Ultimately, however, all of our models in Study 3 had modest explanatory power which is another limitation of this study. There appears to be a lot left to be explained for the decisions in many of our models, although they did identify some factors that explain these decisions. Future research analyzing these decisions should aim to include additional legal factors related to the crime charges, for example whether the charges included a drug, property, or violent charge. It would also be helpful to include whether the charge requires a rebuttable presumption against bail. Finally, including recommendations made by prosecutors or pretrial services could be valuable in helping understand what additional factors may impact these decisions.

Another limitation of the current study was the challenge of analyzing administrative pretrial data. Maxwell (2017) notes a number of challenges in accessing and using administrative data, including determining availability, receiving data, merging multiple data sets, and understanding what the data really mean (and don't mean). In terms of determining availability, missing pretrial data as a result of insufficient information being inputted by staff was one obstacle of this study, as was seen with missing data from the initial court decision, and other variables. In addition, for the jail data, we did not have specific information on the actual charge types, which would have been informative for this study.

In terms of merging data, the jail and the pretrial databases did not have a unique unifying identifier between databases, which required us to match and merge data based on defendant names and jail admission date (within a five day range), therefore reducing our sample size. This illustrates one of the real challenges to effective and quality pretrial research, notably that information is siloed between different agencies. For example, for us to capture a complete picture of an individual's pretrial process, we would have needed information from the magistrate's office, pretrial services, court data, and jail data. Ideally,

criminal justice agencies interested in conducting research across agencies should work towards streamlining a research process, such as providing a single unique identifier that can be used across organizations.

Finally, one of our biggest and timeliest challenges was understanding what the data really meant (and didn't mean), especially with the jail data. The way bail information was captured was not easy to interpret, requiring extensive discussions with staff at the jail to understand their process of data entry, with staff themselves indicating the complicated nature of their tracking system. Despite these administrative data hurdles, we were still able to create a data set that had valuable bail information on the pretrial process within this jurisdiction. Using a practitioner research approach is a potential strategy that may provide valuable contributions to pretrial research. This approach includes involving practitioners directly in the research process who have a substantive understanding of pretrial systems and how they work. This would be a useful strategy in evaluating administrative pretrial data in conjunction with bail processes and outcomes.

Another limitation to this study was that we only evaluated those individuals that were interviewed by pretrial services. It would have been useful to also evaluate those pretrial defendants who are released on recognizance, as well as those individuals that pay their bail immediately following their initial magistrate hearing. Given that our focus was on better understanding the impact of pretrial decisions and outcomes on individuals that face the prospect of spending the duration of the pretrial stage incarcerated, our refined sample including only those that were interviewed was nevertheless appropriate for this study.

A final limitation of this study is that the jurisdiction evaluated has changed their PRAI since this study was conducted. While many of the same risk factors are still used, interestingly length of time at residence less than one year is no longer evaluated, and the employment variable has been refined to simply ask if the individual was employed at the time of arrest. Whether an individual was on active community supervision is now included as well. While these changes do not necessarily diminish the results of this study, they are nevertheless important to note.

Chapter 4: General Discussion

The overall goal of this dissertation was to evaluate the impact of poverty on the pretrial process. This was achieved through three bail studies using both qualitative and quantitative methods. We found in Studies 1 and 2 that financial constraints were the main reason pretrial incarcerated defendants did not pay their money bail, although additional factors were also noted, which provided further insight into the motivations behind individuals' choices not to pay. In addition, study participants detailed a number of potential collateral consequences involving employment, housing, and issues related to children as a result of their pretrial incarceration. They also shared their perceptions of procedural justice, helping to expand our understanding of what fairness in the pretrial stage looks like. In Study 3, we found a relationship between poverty and the final bail outcome of whether someone is given a money bail or no bail pretrial, whether someone pays or does not pay their money bail, the bail amount, and the length of pretrial incarceration. A relationship was not found between poverty and the initial court hearing decision. In addition, the legal factor of risk level, based on a pretrial risk assessment instrument, influenced each of our models. Ultimately, we see that poverty impacts the pretrial process in a number of ways. A broader discussion of our main takeaways across each study will be discussed in the following section.

4.1 Paying for pretrial release: A financial obstacle for many

Across all of our studies, we found that financial barriers play a role in impacting pretrial decisions and outcomes. A main objective of this dissertation was to better understand the reasons and motivations behind why incarcerated pretrial defendants do not pay their money bail. We found in both our surveys (Study 1) and interviews (Study 2) that the majority of defendants cited financial reasons for not paying. While this finding may not be surprising,

it provides the first empirical evidence taken directly from individuals affected by money bail that we are aware of. Looking at the results of the administrative data (Study 3), we also see the role poverty plays in pretrial decisions. Here we found that individuals with characteristics of poverty (i.e. transient and unemployed) received lower money bails but were still considerably less likely to pay. In addition, they remained incarcerated pretrial longer when compared to similarly situated individuals. Given the results of our survey and interviews, it is feasible that many of these individuals could not afford their bail, despite judges potentially setting lower amounts based on financial circumstances. Overall, these results strongly suggest financial barriers and issues related to poverty remain a challenge within the pretrial process.

Through our interviews, we were also able to delve deeper into understanding the specific financial reasons why individuals do not pay their bail. This provided us with insights into the impact bail decisions have on families more broadly. For example, many defendants referenced the importance of not taking financial resources away from their families as a motivation behind not paying. Common answers like these demonstrate that the decision to pay often reaches beyond the defendant to financially-strained families, and communities more generally.

Another contribution of this dissertation included the exploration of non-financial reasons that informed individual decisions whether or not to pay. Some were expected (e.g. legal reasons), while others were less expected (e.g. homelessness-related issues). We also found that these decisions are often nuanced and complex, as many individuals indicated several reasons behind their decision-making. Our qualitative findings pointed to a possible rationalization process that some individuals who cannot pay undertake, principally highlighting the possible benefits of continued pretrial detention (e.g. getting time served, reduced sentence). This helps to shed light on the reality that those incarcerated pretrial are more likely to accept plea deals and plead faster (Stevenson, 2018; M. Sacks & Ackerman, 2012). These individuals, Edelman (2017) argues, are faced with a “Hobson’s choice,” taking

what is offered to them to obtain their freedom, while not entirely realizing the ramifications of this decision. This population, in particular, is more likely to suffer a number of disadvantages in the remaining criminal justice process compared to those released pretrial. Following his evaluation of pretrial decisions and outcomes within the lower criminal courts, Feely (1992) notes that “the cumulative effect of several pretrial and by-product decisions imposed the most significant *tangible* sanctions upon the accused, sanctions which for the most part are not different for the innocent and the guilty” (p. 291). Our findings suggest that for some this cumulative disadvantage may be triggered by a simple inability to pay bail.

4.2 The very real consequences of pretrial incarceration

Another major focus of this dissertation study was to better understand the collateral consequences of those held on money bail. To put it simply, the collateral consequences for those held on a money bail are real, with significant concerns related to employment, housing, and child custody, as seen in Studies 1 and 2. It is important to appreciate the extensive ramifications of pretrial decisions on family members, children, and communities. The peripheral effects on families and loved ones should be an important part of the reform discussion, including the financial strain felt by family members, as well as the emotional burden and toll that family members endure.

In addition, better understanding the consequences for children of detained pretrial defendants should be further explored, as parental incarceration can perpetuate cycles of trauma, which leads to a number of adverse consequences for these children. Vigne et al. (2008) notes that children often display short-term coping mechanisms as a result of a parent’s incarceration, which can then develop into long-term emotional and behavioral problems, including depression, difficulties with school, delinquency, and drug use. While other risk factors could play a role in explaining these outcomes, Vigne et al. (2008) suggests that parental incarceration leads to a unique influence on these outcomes. In our survey (Study 2), we found that a little less than half of defendants with children indicated that

being in jail will or had already changed the living situation of their child(ren). We therefore see that issues related to children seriously affect many pretrial defendants. Through the results of our qualitative study, we also saw that mothers and fathers of children had different concerns as a result of their pretrial incarceration. While fathers were more concerned with financial constraints and the resulting impact on their children, several mothers indicated having to figure out the logistics of their children's care while they were incarcerated. Incorporating the impact on children of incarcerated parents into the pretrial reform discussion is therefore necessary. Moreover, an interesting line of research could explore the extent to which the risk of more severe collateral consequences (e.g. loss of child custody, employment) further motivates individuals to pay their bail.

The basic descriptive information captured in this dissertation provides insights into who remains incarcerated pretrial, and the difficulties and needs they may have. Many are unemployed prior to incarceration and have unstable housing situations. Some are transient, homeless or struggle with substance abuse problems that bring about additional challenges and consequences these individuals may face during detention and after release. Having a better understanding of the needs of the pretrial population is an important contribution to the pretrial literature base. In addition, Vîlcică and Goldkamp (2015) argue that we need to move in the direction of taking into consideration the needs of individuals at the pretrial stage, although these needs have yet to be widely recognized. They argue that, "[t]he explicit recognition of the specific needs of the pretrial population is a step that advances the bail prediction literature beyond the heavy emphasis on static factors" (Vîlcică & Goldkamp, 2015, p. 1163).

Incorporating needs into pretrial decision tools would move the field in a similar direction as corrections, for example, as seen through the inclusion of needs in the Risk-Need-Responsivity (RNR) model for offender assessment (Andrews & Bonta, 2010). The philosophy behind the RNR model is that programming should match the offender's risk level, with high-risk individuals receiving more intensive services. Programs should then target criminogenic needs (e.g. substance use), or dynamic risk factors, of individuals. Finally,

for responsivity, programs should match an offender’s learning style (e.g. social learning, cognitive-behavior). The overall goal is to reduce recidivism. A model including the needs of pretrial defendants could be tailored towards important pretrial decisions and outcomes. Further exploring the needs of this population, as well as how a tool incorporating needs would function, is strongly encouraged.

4.3 Towards a procedurally just pretrial system

A final aspect of this dissertation included exploring elements of procedural justice within the pretrial context, an area that has not been fully explored to date. Through an evaluation of the procedural justice scale in our surveys (Study 1), we found that higher bond amounts lead to lower perceptions of fairness. This is not an entirely surprising finding, but it is still important to note that people tend to believe paying more for their release is unfair. Our interviews were particularly valuable in helping us better understand concepts of fairness as they relate to the setting of money bail and bail hearings. Themes related to the four elements of procedural justice offered by Tyler—voice/participation, neutrality, trustworthiness, and respectful treatment—were highlighted in many of our interviews (Tyler, 1988; Tyler & Thorisdottir, 2003; LaGratta & Tyler, 2017).

In terms of voice/participation, some individuals noted the importance of feeling heard in the process, in particular emphasizing the importance of having their personal situation taken into consideration. Many also noted the importance of consistent application of the rules, as well as transparency of the decision. Given money bail decisions are often criticized due to the ambiguous nature in which they are determined, it is understandable that these individuals emphasized the value of transparency. Trustworthiness was also highlighted by some individuals as it related to their understanding of the process and why decisions are made. Finally, being treated with respect was also expressed as an important characteristic of fairness.

It is important to note, however, that universal definitions of fairness did not emerge in our findings. In other words, we found that some individuals have different interpretations of what fairness looks like. For example, some individuals preferred a speedy process, while others found this to be unfair. Although we were able to identify themes suggested by the majority of individuals, continuing to explore concepts of procedural justice within the pretrial space will help to clarify what fairness in this stage looks like.

We also found special circumstances noted by homeless and indigent defendants in terms of their perceptions of fairness in the pretrial process. Some of these individuals felt stigmatized in the process as a result of their status; a characteristic example was the belief that bail was purposefully set at an amount they believed the judge knew they could not afford. Our administrative results (Study 3) reveal that individuals with poverty characteristics are less likely to pay their bail, despite having bail amounts that are lower than their counterparts, suggesting there may be some truth to this interpretation. Evaluating perceptions of fairness for this population seems particularly valuable. These individuals had additional and unique perspectives compared to other defendants interviewed, which helped provide a more nuanced picture of procedural justice for different populations.

4.4 Theoretical and policy implications

A common theme in the public debate over pretrial practices is the topic of inequality. Our findings raise normative questions about the fairness and equality of using money for pretrial release. As Holsinger (2016) notes, “justice systems that allow the assignment of bail—even very modest amounts of bail—run the risk of creating undesirable outcomes” (p. 2). This is because higher risk defendants with money can pay, whereas even small bail amounts may keep lower risk defendants in jail.

Current advocates of bail reform reference and rely on the safeguards established by the Equal Protection Clause set forth through the Fourteenth Amendment. The Equal Protection Clause ultimately ensures that laws may not be unfairly applied to groups of individuals (Schnacke, 2014a). In the context of money bail, this group of individuals

includes poor defendants who are unable to pay their bail, and therefore remain incarcerated pretrial due to their financial circumstances. Referencing this constitutional provision in the context of money bail is especially appropriate given findings presented in this dissertation, notably that the majority of defendants held on a money bail report that they cannot afford to pay their bail, even arguably low-level bail amounts.

Judicial decision-makers are ultimately tasked with the difficult, if not impossible, task of balancing pretrial risk (including failing to appear to court, as well as danger to the community), while also matching a dollar amount that is equivalent to a reasonable assurance that the defendant return to court. These decisions are made within the context of the jail environment, with many individuals coming in and out of the front-end of the criminal justice system at a rapid pace. During this pretrial period, there is also the need for decisions to be made quickly, with a due process hearing being legally required within 48 hours of commitment. Taking into account ability to pay is another task asked of pretrial decision makers when deciding a dollar amount. This has also been legally supported by the Supreme Court as seen through *Turner v. Rogers* (2011), which found that jailing a defendant without inquiring into their financial status was a violation of the due process clause. In addition, nearly 30 years prior to *Turner*, the Supreme Court also voiced the importance of providing legal safeguards for indigent defendants in *Bearden v. Georgia* (1983), noting that the local government can only imprison someone for not paying a fine if they can show that the person could have paid, but willfully chose not to. Ultimately, there are ample legal protections that lead to the conclusion that wealth should not be a determining factor in whether any particular defendant is released or detained pretrial. It is important to appreciate that including money in the pretrial decision equation adds further complexity, and begs the question of whether we as a society are asking too much of these decision makers. Given the ethical, constitutional, and legal prohibitions on denying liberty because of poverty, the ongoing inequities in the pretrial process must be addressed. The findings in this dissertation substantiate this legal and policy need.

Arguably, basing decisions on people's financial status means people will have very different pretrial experiences. Combining issues of inequality with the very real consequences of being detained while presumed innocent raises important normative questions about the justness of our pretrial system. If in fact pretrial practices are systematically discriminating against certain individuals that cannot afford to pay for their pretrial release, or making it more difficult for them to enjoy basic rights and freedoms, than these are troubling realities of our criminal justice system.

Our administrative data findings (Study 3) also raise important theoretical questions in relation to focal concerns theory. This theory contends that decision-makers may make perceptual shortcuts when making their decisions through the inclusion of legally irrelevant or extralegal factors (Steffensmeier et al., 1998). We found risk level to be a significant driver in each of our pretrial decisions evaluated, which is consistent with the literature stating legal factors strongly contribute to these decisions (Wooldredge et al., 2017; Gottfredson & Gottfredson, 1988). However, additional poverty characteristics also played a role in most of the decisions evaluated in our study. Therefore, it appears that when decision-makers are making bail decisions, they are not just accounting for risk (e.g. blameworthiness and dangerousness), but are also taking into consideration other factors.

It is important to appreciate the complicated nature of pretrial decision-making. While pretrial decision-makers often rely on legal factors, including the nature and seriousness of the current crime and criminal history, they can also take into consideration additional factors such as employment status, community ties, marital status, and child custody, insofar as they relate to predicting pretrial outcomes such as risk of failure to appear at trial. These additional factors are included in some PRAIs, but may also introduce elements of systemic bias. Similar ethical concerns have been raised in relation to decision-making tools in general that may contribute to issues of bias and fairness. As Tonry (1987) notes, "incorporation of such [status] variables in decision-making criteria systematically adversely affects people of lower income and social status" (pg. 397). Risk instruments including characteristics related to poverty may be challenged in the future based on ethical considerations. Some pretrial

tool designers appear to be moving away from the inclusion of such status variables as they consider issues of equity in their assessments. For example, the Public Safety Assessment, a pretrial tool created by Arnold Ventures, does not include race, gender, employment status, level of education, or history of substance use in their tool, noting their effort to create a more just assessment tool (Arnold Ventures Criminal Justice Team, 2017b).

Although all the jurisdictions included in this dissertation use a PRAI, we still found that poverty-related, extralegal factors affected many pretrial decisions. Our results indicate that pretrial systems using these instruments, however, may not be serving poorer individuals. This brings to mind the concerns discussed by Alexander (2018), who argues that risk assessments may negatively impact certain individuals. Based on our findings, it appears these concerns are warranted and should be further explored and discussed in the “third wave” of pretrial reform. In addition, reform advocate Karakatsanis notes his concern about the impact risk assessments may have when grafted onto money bail systems in a “bastardized way,” potentially by disproportionately impacting defendants of color and providing an evidence base for detaining individuals pretrial (Edelman, 2017). Although we found in our administrative study that similarly situated African Americans were more likely to pay their bail than their White counterparts when controlling for several poverty proxy variables, these concerns are nevertheless warranted based on prior pretrial research on the impact of pretrial decisions on defendants of color. Future research should replicate our study and evaluate the impact of risk assessments and pretrial decisions on vulnerable populations, while also incorporating additional poverty variables.

Our research underscores the challenges that remain in tackling issues related to poverty within the pretrial process. Whether states and jurisdictions interested in reform eliminate money bail altogether, reduce their reliance on it, or incorporate PRAIs, these changes may not be a panacea for tackling issues related to poverty in the pretrial process. However, the increasing awareness that bail decisions impact the poor and the momentum surrounding the need for change is promising. This dissertation highlights the relationship between poverty and bail decisions and outcomes, and contributes findings that inform discussions of what

a fair, just and effective pretrial system should look like. We encourage continued research on the impact of poverty on the pretrial process and believe that this will help guide the reform movement moving forward.

4.5 Future directions in pretrial research

Below we explore topics for future research in the pretrial space that we believe are needed. One additional area that warrants further exploration includes evaluating the impact of poverty on all pretrial decisions, including the initial decision of release on recognizance or personal recognizance. The present dissertation study did not analyze individuals that were released outright (with non-financial requirements), and whether poverty plays a role in the decision-making process and outcomes for these defendants as well. Individuals that are given a money bail and those that are detained outright are potentially significantly different from those that are released. In addition, in our administrative analysis (Study 3) we found that African Americans were more likely to pay their bail compared to White defendants. It is possible that there may be differences seen for those individuals given money bail, whereby potentially more White defendants are released pretrial, with those that are detained and do not pay being more culpable, thereby less likely to post. Analyzing decisions across these different points would ultimately provide for a more comprehensive picture of these decisions. In addition, understanding whether and how risk instruments affect poor individuals at each decision point warrants further investigation. Although the aim of the dissertation was to evaluate those individuals incarcerated pretrial, adding this additional group (e.g. those released PR) is encouraged for future research on this topic.

We also encourage a deeper exploration into the factors that motivate pretrial decision-makers based on the results of Study 3. The models evaluated in our administrative study found variables that influence pretrial decisions and outcomes, but there was a lot left to be explained. Future studies employing qualitative methods, especially interviews with pretrial decision-makers and observations of pretrial hearings, appears necessary to help us better understand the ‘black box’ of pretrial decisions.

The area of procedural justice is also ripe for continued exploration in the pretrial space, especially as major concerns regarding concepts of fairness surround pretrial decisions. Solidifying what procedural justice looks like in the context of pretrial processes would be an appropriate next step. Research could then include evaluations of these elements of procedural justice within pretrial decisions in conjunction with outcomes of misconduct (e.g. future crimes and FTAs).

A final area we believe would benefit from additional research includes better understanding the legally complex cases that occur within the pretrial process, and whether poverty impacts these cases as well. As we discovered in our three studies, the pretrial process is often more complex than we appreciate. For example, we found a number of individuals in our administrative study who were offered a money bail, paid, yet remained incarcerated pretrial. These individuals may pay but remain incarcerated because they had not realized, for example, they have holds on their record. In addition, several individuals that completed our survey and were interviewed noted that they had additional legal complications keeping them in jail pretrial, even though they could not afford their bail. As a result, jurisdictions eliminating or reducing their reliance on money bail will not be able to address some of these legally complicated situations. This is an important consideration because, as Edelman (2017) argues, “getting rid of money bail is far from all that is needed . . . but it would certainly help” (pg. 50).

Ultimately, to implement effective policies and reforms, it is essential to have a better grasp and better research on the state of the pretrial process. Reforms often follow anecdote, assumption, and over-broad conclusions, but require sustained empirical research to tackle critical issues of over incarceration and inequality. For example, structural issues related to pretrial procedures, laws, rules, and regulations also play a role in pretrial incarceration. Pretrial reform efforts should take these factors into consideration when proposing possible reforms. To return to a horrific example of pretrial detention gone wrong, poverty certainly played a role in Kalief Browder’s detention, but so did the laws around his pretrial detention as a result of a probation violation, as well as the likely animus or bias of pretrial

decision-makers. Equitable and sustainable reforms must be based on these multi-faceted considerations.

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Appendix A: Jail Survey (English and Spanish Versions)

Jail Survey

Please answer all questions honestly. Ask a George Mason researcher for clarification if you do not understand a question.

1. Inmate ID number

.....

2. The court set a bond amount that I must pay before being released.

Mark only one oval.

- ☐ Yes
- ☐ No (please stop filling out this survey)

3. Today the amount of my bond in this jurisdiction is set at:

Mark only one oval.

- ☐ \$0 to \$500
- ☐ \$501 to \$1,000
- ☐ \$1,001 to \$5,000
- ☐ \$5,001 to \$10,000
- ☐ \$10,001 to \$25,000
- ☐ \$25,001 to \$50,000
- ☐ \$50,001 to \$100,000
- ☐ \$100,001 or more

4. I have been in jail:

Mark only one oval.

- ☐ 1 to 3 days
- ☐ 4 to 7 days
- ☐ 8 to 14 days
- ☐ 15 to 30 days
- ☐ 31 to 60 days
- ☐ 61 days or more

5. I plan to post bond.

Mark only one oval.

- ☐ Yes - I will use a bondsman
- ☐ Yes - I will pay the court directly
- ☐ Not sure yet
- ☐ No (skip to question # 7)

6. I will pay by:

Check all that apply.

- ☐ Using my own money
- ☐ Getting help from family
- ☐ Getting help from friends
- ☐ Other:

7. I did not or will not post bond because:

Check all that apply.

- ☐ I cannot afford it
- ☐ My family cannot afford it
- ☐ I don't want to
- ☐ My family doesn't want to help
- ☐ My lawyer told me not to
- ☐ I have a bond or warrant in another jurisdiction
- ☐ I'm sentenced on another case
- ☐ Other:

8. I had a job before I was arrested.

Mark only one oval.

- ☐ Yes (please answer next question)
- ☐ No (skip to question # 10)

9. I may lose my job because I am in jail.

Mark only one oval.

- ☐ Yes
- ☐ No

10. **Before being arrested, I was:**

Mark only one oval.

- ☐ Living with my family
- ☐ Living with roommates
- ☐ Living alone
- ☐ Living in a shelter or motel
- ☐ Living on the street
- ☐ Other:

11. **I had been living in this arrangement for:**

Mark only one oval.

- ☐ Up to 1 month
- ☐ 1 to 3 months
- ☐ 3 to 6 months
- ☐ 6 or more months

12. **I will live in the same place when I get out of jail.**

Mark only one oval.

- ☐ Yes
- ☐ No
- ☐ I don't know

13. **Being in jail has or will improve my relationship with my family.**

Mark only one oval.

	1	2	3	4	5	
Strongly disagree	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	Strongly agree

14. **Are you a parent or guardian of one or more children?**

Mark only one oval.

- ☐ Yes (answer next question)
- ☐ No (skip next question)

15. **Being in jail has or will change the living situation for a child in my custody.**

Mark only one oval.

- ☐ Yes
- ☐ No
- ☐ I don't know

16. I have posted bond for a prior arrest.

Check all that apply.

- ☐ No, I have no prior arrests
- ☐ No, I wasn't offered bond
- ☐ No, I was released on recognizance
- ☐ Yes, I paid the court directly
- ☐ Yes, I used a bail bondsman
- ☐ Other:

Please tell us your opinion on the following statements.

17. My most recent bond hearing was fair.

Mark only one oval.

	1	2	3	4	5	
Strongly disagree	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	Strongly agree

18. I was treated with respect during my most recent bond hearing.

Mark only one oval.

	1	2	3	4	5	
Strongly disagree	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	Strongly agree

19. The current bond amount set for me is fair.

Mark only one oval.

	1	2	3	4	5	
Strongly disagree	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	Strongly agree

20. Paying a money bond encourages people to come to court.

Mark only one oval.

	1	2	3	4	5	
Strongly disagree	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	Strongly agree

21. **Paying a money bond encourages people to follow the law.**

Mark only one oval.

	1	2	3	4	5	
Strongly disagree	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	Strongly agree

22. **In what year were you born?**

.....

23. **Please check the boxes that best reflect your racial and ethnic identity.**

Check all that apply.

- ☐ White
- ☐ African American
- ☐ Hispanic
- ☐ Asian/Pacific Islander
- ☐ Native American or American Indian
- ☐ Other:

24. **Please select the option below that best reflects your education level.**

Mark only one oval.

- ☐ Less than high school
- ☐ High school diploma or GED
- ☐ Some college
- ☐ Associate degree
- ☐ College degree
- ☐ Advanced degree (e.g. Masters, Doctorate)
- ☐ Other:

Additional Future Interview

We will be randomly selecting willing participants to complete an additional interview on the topic of bail and money bond. This interview will last roughly 20 to 30 minutes and be conducted within the next week or two.

25. **Would you be willing to complete an additional interview on the topic of bail and money bond?**

Mark only one oval.

- ☐ Yes, I am willing to complete an interview.
- ☐ No, I do not want to complete an interview.

Thank you for completing this survey!

Encuesta Carcelaria

Por favor conteste todas las preguntas honestamente. Si no entiende alguna pregunta, por favor pida ayuda a un representante de la Universidad de George Mason.

1. Prisionero Numero:

.....

2. La corte señalo una cantidad para mi fianza que debo pagar antes de salir.

Marca solo un óvalo.

- ☐ Si
- ☐ No (deje de llenar la encuesta)

3. Hoy dia la cantidad de mi fianza en esta jurisdiccion es?

Marca solo un óvalo.

- ☐ \$0 a \$500
- ☐ \$501 a \$1,000
- ☐ \$1,001 a \$5,000
- ☐ \$5,001 a \$10,000
- ☐ \$10,001 a \$25,000
- ☐ \$25,001 a \$50,000
- ☐ \$50,001 a \$100,000
- ☐ \$100,001 o más

4. He estado en la cárcel por el lapso de:

Marca solo un óvalo.

- ☐ 1 a 3 días
- ☐ 4 a 7 días
- ☐ 8 a 14 días
- ☐ 15 a 30 días
- ☐ 31 a 60 días
- ☐ 61 días o más

5. Yo enviare mi fianza.

Marca solo un óvalo.

- ☐ Si, yo usare un fiador
- ☐ Si, yo pagare directamente a la corte
- ☐ Todavía no estoy seguro
- ☐ No, (sálte a la pregunta #7)

6. Yo pagare mi fianza:

Selecciona todas las opciones que correspondan.

- ☐ Usando mi propio dinero
- ☐ Con ayuda de mi familia
- ☐ Con ayuda de mis amigos
- ☐ Otros:

7. Yo no voy a pagar o no pague la fianza por la siguiente razon:

Selecciona todas las opciones que correspondan.

- ☐ No tengo dinero
- ☐ Mi familia no tiene dinero
- ☐ No deseo pagar
- ☐ Mi familia no me quiere ayudar
- ☐ Mi abogado me dijo que no pague
- ☐ Yo tengo una fianza o una orden de arresto en otra jurisdiccion
- ☐ Estoy sentenciado en otro caso
- ☐ Otros:

8. Yo tenía trabajo antes de ser arrestado.

Marca solo un óvalo.

- ☐ Si (por favor conteste la siguiente pregunta)
- ☐ No (salte a la pregunta # 10)

9. Yo podria perder mi trabajo por estar encarcelado.

Marca solo un óvalo.

- ☐ Si
- ☐ No

10. Antes de ser arrestado, Yo:

Marca solo un óvalo.

- ☐ Vivía con mi familia
- ☐ Vivía con compañeros de vivienda
- ☐ Vivía solo
- ☐ Vivía en un albergue o motel
- ☐ Vivía en la calle
- ☐ Otros:

11. He vivido aquí por:

Marca solo un óvalo.

- ☐ Menos de 1 mes
- ☐ 3 a 6 meses
- ☐ 6 o más meses

12. Voy a vivir en el mismo lugar cuando salga de la cárcel.

Marca solo un óvalo.

- ☐ Si
- ☐ No
- ☐ No se

13. Estar en la cárcel ha hecho que mejore mi relación familiar.

Marca solo un óvalo.

	1	2	3	4	5	
No estoy de acuerdo	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	Estoy de acuerdo

14. Usted es padre de familia de uno o más niños?

Marca solo un óvalo.

- ☐ Si (conteste la próxima pregunta)
- ☐ No (saltar la próxima pregunta)

15. Al estar en la cárcel se ha cambiado la situación de vivienda de mis hijos.

Marca solo un óvalo.

- ☐ Si
- ☐ No
- ☐ No lo se

16. He enviado la fianza de un arresto anterior.

Selecciona todas las opciones que correspondan.

- ☐ No, No tengo arrestos previos
- ☐ No, No me ofrecieron una fianza
- ☐ No, me dejaron salir por reconocimiento
- ☐ Si, yo pague directamente a la corte
- ☐ Si, use un fiador
- ☐ Otros:

Por favor dígame sus opciones en lo siguiente.

17. Mi audiencia mas reciente para mi fianza fue justa.

Marca solo un óvalo.

	1	2	3	4	5	
No estoy de acuerdo	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	Estoy de acuerdo

18. Fui tratado con respeto durante mi ultima audiencia para mi fianza.

Marca solo un óvalo.

	1	2	3	4	5	
No estoy de acuerdo	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	Estoy de acuerdo

19. El monto presente de la fianza a pagar es justo.

Marca solo un óvalo.

	1	2	3	4	5	
No estoy de acuerdo	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	Estoy de acuerdo

20. Al pagar una fianza, hace que la gente se acerque a la corte.

Marca solo un óvalo.

	1	2	3	4	5	
No estoy de acuerdo	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	Estoy de acuerdo

21. Al pagar una fianza, hace que la gente siga las leyes.

Marca solo un óvalo.

	1	2	3	4	5	
No estoy de acuerdo	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	estoy de acuerdo

22. En que año nacio?

.....

23. Cual es su identidad racial y étnica?

Selecciona todas las opciones que correspondan.

- ☐ Blanco
- ☐ Africano Americano
- ☐ Hispanico
- ☐ Asiatico o nacido en las Islas del Pacifico
- ☐ Nativo Americano o Indio Americano
- ☐ Otros:

24. A que nivel de educacion llevo usted?

Marca solo un óvalo.

- ☐ No termino la secundaria
- ☐ Termine la secundaria
- ☐ Fue al College
- ☐ Tiene un titulo de College
- ☐ Tiene un grado Universitario o un Doctorado
- ☐ Otros:

Información adicional para mi futuro entrevista

Nosotros escogeremos al azar participantes que estén dispuestos a completar una entrevista adicional con referencia a fianza y dinero para la misma. Esta entrevista durará de 20 a 30 minutos y será conducida entre las próximas dos a tres semanas.

25. Le gustaría completar información adicional a esta entrevista y al tópico de fianza y dinero para la fianza?

Marca solo un óvalo.

- ☐ Sí, Estoy dispuesto a completar otra entrevista.
- ☐ No, No deseo completar otra entrevista.

Gracias por completar este cuestionario!

Appendix B: Consent Forms (English and Spanish Versions)

MONEY BAIL PROCESS EXPERIENCES AND PERCEPTIONS

INFORMED CONSENT FORM

RESEARCH PROCEDURES

This research is being conducted to understand the reasons behind why defendants do not post money bond, and what potential consequences arise from not posting this bond. For those defendants who have been released, we are interested in understanding perceptions of bail and money bond, and the potential consequences of the bail process. If you agree to participate, you will be asked to complete a brief survey lasting roughly 10 minutes and/or will be asked to participate in an interview with a researcher. Interviews will be semi-structured and will focus on understanding your experiences with money bail, and the perceptions you have of this process. Interviews should last no more than 30 minutes. **Interviews may be audio-recorded based on subjects' permission.**

RISKS

There are no foreseeable risks for participating in this research.

BENEFITS

There are no benefits to you as a participant other than to help further research on the bail process in general, and money bond in particular. Participation in this research will in no way influence the outcome of your pending case. This study will help researchers understand experiences and perspectives of bail, as well the decisions made around bail.

CONFIDENTIALITY

The data collected in this study will be confidential. Surveys and interviews will not include information that can be used to identify you (such as your name and locations). Interviews may be audio recorded on a device that is password protected and can be accessed only by the graduate research student, undergraduate student and Principal Investigator. You may choose not to have the interview audio recorded, in which case notes of the interview will be taken during the interview. Audio-recorded interviews will be transferred to a password-protected computer, at which point they will be deleted from the audio recorder. Transcripts of the recordings will be made and interview notes will be typed up and kept on a password protected computer, accessible also only by the graduate research student. After transcripts are made, the audio recordings will be deleted from the password-protected computer. Transcripts will be deleted from the password-protected computer following a 5-year time period. Study data will also be accessible to the Principal Investigator, Dr. David Wilson and undergraduate student. Overall findings from the project will potentially be disseminated through various academic outlets, such as conference presentations and scholarly journals.

PARTICIPATION

Your participation is voluntary, and you may withdraw from the study at any time and for any reason. If you decide not to participate or if you withdraw from the study, there is no penalty or loss of benefits to which you are otherwise entitled. There are no costs to you or any other party.

CONTACT

This research is being conducted by Dr. David Wilson, Catherine Kimbrell and Jemily Hayek at George Mason University. They may be reached at 703-993-4701 for questions or to report a

research-related problem. You may contact the George Mason University Office of Research Integrity & Assurance at 703-993-4121 if you have questions or comments regarding your rights as a participant in the research.

This research has been reviewed according to George Mason University procedures governing your participation in this research.

CONSENT

I have read this form, all of my questions have been answered by the research staff, and I agree to participate in this study.

If you will be participating in an interview, please let the researcher know whether or not you agree to have your interview audio recorded.

FIANZA SU PROCESO, EXPERIENCIAS Y PERCEPCIONES FORMULARIO DE DECLARACION DE CONCENTIMIENTO

PROCEDIMIENTOS DE INVESTIGACION

Esta investigacion se ha llevado a cabo, para entender las razones por las cuales el acusado no paga su fianza y a su vez entender las consecuencias a que eso conlleva. A traves de esta investigacion nos interesa conocer si los acusados que fueron puestos en libertad entendieron los procedimientos de la fianza, y bonos de dinero. Tambien queremos analizar como percibieron todo el proceso y las consecuencias de obtener una fianza. Si usted esta de acuerdo en participar, necesita llenar una encuesta corta que durara 10 minutos. Ademas podria tambien participar en una entrevista personal con un investigador. Las entrevistas seran semiestructuradas y tienen por objetivo el entender sus experiencias con bonos de fianza y que opina usted con respecto al proceso. Las entrevistas duraran 30 minutos. Las entrevistas podran ser grabadas siempre y cuando el entrevistado de su autorizacion.

RIESGOS

No se anticipan riesgos por participar en esta investigacion

BENEFICIOS

El participante no se beneficia en absoluto con esta investigacion. El unico objetivo es el de brindar ayuda a la investigacion, para que asi se pueda entender de una mejor manera el proceso de bonos de fianza, bonos de dinero y fianza en general. La participacion en esta investigacion, no influenciara de ninguna manera los resultados de su caso pendiente con la corte. Esta investigacion ayudara a los investigadores a entender mejor las experiencias, los procedimientos y las decisiones que se generan en a una fianza.

CONFIDENCIALIDAD

Los resultados finales de este estudio seran confidenciales. Los cuestionarios y entrevistas no incluiran ninguna informacion que pueda incriminarlo o identificarlo (como nombres o direcciones). Las entrevistas seran gravadas y archivadas con claves seguras, de tal manera que solo el alumno investigador, el estudiante licenciado y el investigador principal tendran acceso a su informacion. Las entrevistas de audio seran pasadas a una computadora que a su vez esta protegida con claves secretas para su seguridad. Una vez pasadas a la computadora seran borradas de la grabadora inicial. La transcripcion de las grabaciones seran hechas y mantenidas en la computadora con claves secretas de seguridad y solamente el estudiante de la investigacion tendra acceso a las mismas. Despues de realizar las transcripciones, las audio grabaciones seran eliminadas de la computadora una vez transcurrido un lapso de 5 anos. El investigador principal, el Dr. David Wilson y un estudiante licenciado tendran tambien acceso a los resultados del estudio. Finalmente, los resultados generales del estudio seran difundidos a traves de diversos medios academicos como presentaciones, conferencias y diarios escolares.

PARTICIPACION

Su participacion es voluntaria y usted puede retirarse del estudio en cualquier momento o por cualquier circunstancia. Si usted desea no participar o si desea salirse del estudio no sera penalizado y no perdera tampoco ningun beneficio dado su caso. Su participacion es gratuita y sin costo alguno a usted o a otra persona.

CONTACTO

Esta investigación a sido llevada a cabo por el Dr. David Wilson, Catherine Kimbrell y Jemily Hayek de la Universidad de George Mason. Si tiene usted preguntas o desea hablar de algun problema con respecto a esta investigacio, usted los puede contactar al numero siguiente: 703 993-4701 Y ademas, tambien puede contactarse directamente si tiene comentarios o preguntas ralacionadas a sus derechos como participante de esta investigacion llamando a la oficina de Integridad y Garantia Investigativa de la Universidad de George Mason al numero siguiente: 703-993-4121.

Esta investigacion ha sido revisada conforme a los precedimientos de la Universidad de George Mason que rigen su participacion en esta investigacion.

CONSENTIMIENTO

He leído esta encuesta y todas mis preguntas han sido contestadas por los investigadores. Yo estuve de acuerdo en participar.

Si usted va a participar en la entrevista, por favor informar al investigador si esta usted de acuerdo con que su entrevista sea grabada o si usted desea que no se le grabe.

Appendix C: Mean Differences in Procedural Justice Scale Scores

Table C.1: Mean Differences in Procedural Justice Scale Scores by Demographic and Collateral Consequence Variables

Characteristic	<i>n</i>	Mean	Standard Deviation	<i>t/F</i>
Age	197	2.44	1.22	0.61
18-24	57	2.54	1.16	
25-30	43	2.60	1.29	
31-40	52	2.24	1.19	
41-50	26	2.38	1.25	
51-60	17	2.37	1.20	
61+	2	3.00	2.83	
Gender	219	2.42	1.25	-0.99
Male	166	2.38	1.27	
Female	53	2.57	1.18	
Education	212	2.42	1.25	2.79*
Less than high school	51	2.69	1.40	
High school diploma or GED	94	2.46	1.29	
Some college	44	2.36	1.02	
Associates Degree	9	1.48	0.67	
College or Advanced Degree	14	1.83	0.90	
Race/Ethnicity	190	2.44	1.26	1.00
White only	67	2.58	1.13	
African American only	56	2.24	1.27	
Hispanic only	56	2.40	1.31	
Other only	11	2.76	1.62	
Employment	218	2.41	1.24	-1.28
Yes	153	2.34	1.19	
No	65	2.58	1.34	
Living situation	218	2.43	1.25	2.06
Family/significant other	96	2.30	1.24	
Roommates	27	2.72	1.40	
Alone	37	2.23	1.04	
Transient	56	2.67	1.27	
Other	2	1.00	0.00	
Child custody	217	2.40	1.23	-2.56**
Yes	122	2.22	1.17	
No	95	2.64	1.26	

* $p \leq .05$, ** $p \leq .01$

Appendix D: Survey Data Independent Variable Correlations

Table D.1: Survey Data Independent Variable Correlations

Measure	1	2	3	4	5	6	7	8
1. Unemployed	1.00							
2. Transient	0.22	1.00						
3. Priors	-0.10	0.06	1.00					
4. Bail amount	-0.04	-0.07	0.01	1.00				
5. Jail time	0.00	-0.02	0.03	0.35	1.00			
6. Male	-0.15	-0.15	-0.10	0.03	0.06	1.00		
7. Age	0.06	-0.02	-0.05	0.11	0.08	-0.01	1.00	
8. White only	0.06	0.21	-0.02	-0.06	-0.08	-0.03	0.10	1.00
9. Black only	0.03	-0.17	-0.02	0.10	0.04	0.05	-0.04	-0.40
10. Hispanic only	-0.04	-0.08	-0.02	0.06	0.12	-0.04	-0.00	-0.41
11. Race other	0.04	-0.00	-0.11	-0.03	0.05	0.07	-0.05	-0.16
12. Less than HS	-0.07	0.01	0.11	-0.16	-0.04	-0.04	-0.19	-0.03
13. Some HS	0.16	0.10	-0.20	0.12	0.06	-0.08	-0.05	-0.13
14. College plus	-0.13	-0.12	0.11	0.04	-0.00	0.13	0.24	0.15
15. Children	-0.07	-0.06	0.11	0.24	0.12	-0.09	0.09	-0.13
Measure	9	10	11	12	13	14	15	
9. Black	1.00							
10. Hispanic	-0.32	1.00						
11. Race other	-0.12	-0.13	1.00					
12. Less than HS	-0.07	0.12	-0.05	1.00				
13. Some HS	0.01	0.05	0.09	-0.47	1.00			
14. College plus	0.07	-0.14	-0.10	-0.38	-0.62	1.00		
15. Children	0.16	0.04	-0.07	-0.10	0.10	-0.02	1.00	

$n=171$

Appendix E: Interview Questionnaire (English and Spanish Versions)

Jail Interview Questionnaire

This is a face-to-face, open-ended questionnaire administered by a George Mason researcher and will be administered after informed consent and an introduction to the project.

1. Inmate ID

.....

2. Do you anticipate being released from jail before your court date?

.....

.....

.....

.....

3. How many days have you been in jail since your bond was set?

.....

4. What is the dollar amount of your most recent bond?

.....

5. Did you have an initial bond set for you that was different than this amount? [If yes, how much was it?]

.....

6. Why do you think your bond was set at the amount it was set at? [Either original amount, after bond hearing or both]

.....

7. Do you plan to post bond?

Mark only one oval.

☐ Yes

☐ No

8. [If responded answered "yes" to the above]: How do you plan to pay your bond?
[E.g. Pay court directly or use a bail bondsman. Probe: When do you think you will be able to post bond?]

.....

.....

.....

.....

.....

9. [If "no" to question about posting bond]: Why aren't you planning on posting bond?

.....

.....

.....

.....

.....

10. [If they mention money in prior response]: If money had not been an issue, would you have posted bond?

.....

.....

.....

.....

.....

11. Did you ask anyone, family or friends, for help posting bond?

.....

.....

.....

.....

.....

12. [If they asked family or friends]: What were their reasons for not helping you post bond?

.....

.....

.....

.....

.....

13. **[If they did not ask family or friends]: What were your reasons for not asking your family or friends for help?**

.....

.....

.....

.....

.....

14. **What was your employment status before you were arrested?**

[Probes: What did you do? Who did you work for? How long did you have that job for?]

.....

.....

.....

.....

.....

15. **[If they were employed]: What will happen to your job now that you are in jail?**

[Probes: Will you lose your job? Will you be able to find another one?]

.....

.....

.....

.....

.....

16. **What was your housing situation before you were arrested?**

[Probes: With whom did you live? How long did you live there?]

.....

.....

.....

.....

.....

17. **Will you return to the same [select appropriate option based on prior response] house/apartment/motel/shelter when you are released?**

[Probes: Will you lose your apartment? Will you lose your house? Will your family allow you to live with them? Will your friends allow you to live with them?]

.....

.....

.....

.....

.....

18. **Describe your relationship with your family.**

[Probes: How has being in jail changed your relationship with your family? Are you a parent or guardian for any children? Who is caring for your children now?]

.....

.....

.....

.....

.....

Please tell us your opinion on the following statements.

19. **Do you think the most recent bond amount set for you was fair? Why/why not?**

.....

.....

.....

.....

.....

20. **Do you think your most recent bond hearing was fair? Why/why not?**

.....

.....

.....

.....

.....

21. Do you feel like you were treated with respect during your most recent bond hearing?

.....

.....

.....

.....

.....

22. Do you believe that requiring money for release is a useful way to get people to return to court? Why/why not?

.....

.....

.....

.....

.....

23. Do you believe that requiring money for release is a useful way to get people to follow the law? Why/why not?

.....

.....

.....

.....

.....

Thank you for completing this interview.

Entrevista Carcelaria

Esto es una entrevista de persona a persona, las respuestas seran cortas y concisas de Si o No. La entrevista sera realizada por un investigador de la Universidad de George Mason y sera realizada despues de que usted sea informado acerca del proyecto y despues que usted de su consentimiento.

1. Numero de Preso

.....

2. Usted anticipa salir de la carcel antes de su audiencia en la corte?

.....

.....

.....

.....

.....

3. Cuantos días se encuentra usted preso desde que se estableció la fianza?

.....

4. Cuanto fue la cantidad de su fianza mas reciente?

.....

5. Tuvo usted una cantidad de fianza diferente a esta cantidad? [si la respuesta es si, por cuanto fue la cantidad?]

.....

6. Por que cree usted que su fianza mas reciente fue assignada en esa cantidad? [pudo haber sido, la cantidad original, la cantidad despues de la audiencia para su fianza, o los dos]

.....

7. Usted planea pagar su fianza?

Marca solo un óvalo.

- ☐ Si
- ☐ No

8. [Si respondió “Si” a la pregunta anterior:] Como usted piensa pagar su fianza?

[Por Ejemplo: pagar directamente a la corte or usar un fiador. Cuando cree usted que podrá pagar la fianza?]

.....

.....

.....

.....

.....

9. [Si respondió “No” a la pregunta con respecto al pago de la fianza, contéstenos:] Por que usted no piensa pagar la fianza?

.....

.....

.....

.....

.....

10. [Si se mencionó dinero en la respuesta anterior] Si el dinero no hubiera sido un problema, usted hubiera enviado la fianza?

.....

.....

.....

.....

.....

11. Usted pidió ayuda a familiares o amigos para enviar el dinero de la fianza?

.....

.....

.....

.....

.....

12. **[Si pidió ayuda a sus familias o amigos] Cual fueron las razones para no ayudarlo con el pago de la fianza?**

.....

.....

.....

.....

.....

13. **[Si no pidió ayuda a sus familia o amigos] Cual serian las razones por las cuales no se pidió ayuda a sus familiares o amigos?**

.....

.....

.....

.....

.....

14. **Cual era su situacion laboral antes de que usted haya sido arrestado?**
[En que trabajaba? Para quien trabajaba? Por cuánto tiempo tuvo ese trabajo?]

.....

.....

.....

.....

.....

15. **[Y si usted estuvo empleado] Que pasara con su trabajo mientras se encuentra encarcelado?**

[Perdería usted su trabajo? Podrá encontrar otro trabajo?]

.....

.....

.....

.....

.....

16. **Cual fue su situación de vivienda antes de que usted fue arrestado?**

[Con quien vivía? Por cuánto tiempo vivió ahí?]

.....

.....

.....

.....

.....

17. **Regresara usted a la misma [seleccione la respuesta basada en su respuesta anterior] casa/apartamento/motel/albergue cuando salga de la carcel?**

[Usted podría perder su apartamento? Usted podria perder su casa? Su familia le permitiria que viva con ellos? Sus amigos le permitirian que viva con ellos?]

.....

.....

.....

.....

.....

18. **Describa su relacion con su familia.**

[El haber estado detenido, a cambiado la relacion con su familia? Es usted padre de familia? Quien cuida de sus hijos en estos momentos]

.....

.....

.....

.....

.....

Por favor diganos su opinion en los siguiente.

19. **Usted piensa que la ultima cantidad que se pidio por su fianza fue justa? Explique el por que cree que fue justa o explique el porque cree que fue injusta?**

.....

.....

.....

.....

.....

20. A su criterio, la ultima audiencia en donde se fijo su fianza fue justa? Explique el porque cree que fue justa o explique el porque cree que fue injusta?

.....

.....

.....

.....

.....

21. Cree usted que fue tratado con respeto durante la ultima audiencia en que cual se fijo su fianza?

.....

.....

.....

.....

.....

22. Usted considera que pedir fianza es una buena forma de lograr que la gente se acerque a la corte? Por qué lo cree así o por que no lo cree así?

.....

.....

.....

.....

.....

23. Usted considera que pedir fianza es una buena forma de lograr que la gente siga las leyes? Por qué lo cree así o por que no lo cree así?

.....

.....

.....

.....

.....

Gracias por completar este cuestionario!

**Appendix F: Correlation Table of Independent Variables
Included in Administrative Data Regression Analyses**

Table F.1: Administrative Data Independent Variable Correlations

Measure	1	2	3	4	5	6	7	8	9	10
1. Transient	1.00									
2. Employed	-0.14	1.00								
3. Length at residence (logged)	-0.17	0.04	1.00							
4. Risk level	0.11	-0.22	-0.16	1.00						
5. Age (divided by 10)	0.04	-0.03	0.05	0.06	1.00					
6. Male	0.04	0.10	-0.02	0.08	0.01	1.00				
7. White	-0.04	0.08	-0.02	-0.14	0.04	-0.01	1.00			
8. Asian	0.02	0.01	0.00	-0.07	0.02	0.01	-0.19	1.00		
9. Hispanic	-0.04	0.10	0.02	-0.04	-0.01	0.05	-0.18	-0.04	1.00	
10. High school/GED	0.03	-0.05	-0.02	0.13	-0.11	0.04	-0.07	-0.04	0.00	1.00
11. Trade/Some college	-0.04	0.04	0.06	-0.03	0.01	-0.05	0.03	0.00	-0.06	-0.52
12. College	-0.02	0.05	0.02	-0.11	0.16	-0.02	0.07	0.09	-0.04	-0.26
13. Graduate	-0.03	0.07	0.00	-0.13	0.12	-0.04	0.05	0.06	-0.01	-0.13
14. Divorced/separated/widowed	0.01	0.00	-0.03	0.05	0.39	-0.02	0.09	0.00	-0.02	-0.08
15. Never married	0.03	-0.08	0.01	0.04	-0.47	0.00	-0.11	-0.04	-0.03	0.12
16. Has children	-0.03	0.06	-0.02	0.12	0.26	-0.06	-0.1	-0.04	0.05	-0.02
17. U.S. Citizen	0.00	-0.09	0.08	0.25	-0.07	-0.06	-0.08	-0.16	-0.21	0.13
Measure	11	12	13	14	15	16	17			
11. Trade/Some college	1.00									
12. College	-0.18	1.00								
13. Graduate	-0.09	-0.04	1.00							
14. Divorced/separated/widowed	0.04	0.06	0.05	1.00						
15. Never married	0.00	-0.13	-0.11	-0.64	1.00					
16. Has children	-0.05	-0.03	-0.01	0.21	-0.35	1.00				
17. U.S. Citizen	0.10	-0.06	-0.04	0.03	0.12	-0.04	1.00			

$N=2,245$

**Appendix G: Correlation Table of Independent Variables
including American Community Survey Variables Included in
Administrative Data Regression Analyses**

Table G.1: Administrative Data Independent Variable and American Community Survey Variable Correlations

Measure	1	2	3	4	5	6	7	8	9	10
1. Transient	1.00									
2. Employed	-0.09	1.00								
3. Length at residence (logged)	-0.14	0.01	1.00							
4. Risk level	0.10	-0.22	-0.15	1.00						
5. Age (divided by 10)	0.04	-0.04	0.05	0.04	1.00					
6. Male	0.05	0.10	-0.01	0.05	-0.01	1.00				
7. White	-0.05	0.09	0.01	-0.17	0.05	0.00	1.00			
8. Asian	0.01	0.02	0.00	-0.05	0.00	0.02	-0.19	1.00		
9. Hispanic	-0.03	0.09	0.01	-0.04	0.00	0.05	-0.20	-0.04	1.00	
10. High school/GED	0.05	-0.04	-0.02	0.14	-0.11	0.05	-0.07	-0.03	0.00	1.00
11. Trade/Some college	-0.02	0.03	0.05	-0.03	0.01	-0.06	0.04	0.02	-0.08	-0.54
12. College	-0.03	0.04	0.02	-0.12	0.17	-0.03	0.07	0.06	-0.04	-0.26
13. Graduate	-0.03	0.05	0.02	-0.13	0.14	-0.04	0.05	0.09	-0.01	-0.14
14. Divorced/separated/widowed	0.00	0.00	-0.03	0.07	0.39	-0.02	0.09	-0.03	-0.01	-0.07
15. Never married	0.03	-0.09	0.02	0.04	-0.47	0.00	-0.11	-0.03	-0.05	0.11
16. Has children	-0.02	0.07	-0.03	0.11	0.27	-0.07	-0.12	-0.03	0.07	-0.02
17. U.S. Citizen	0.01	-0.11	0.07	0.25	-0.08	-0.10	-0.07	-0.14	-0.25	0.13
18. ACS Unemployed (logged)	0.00	-0.08	0.09	0.06	0.00	-0.07	-0.08	0.00	-0.05	-0.01
19. ACS Below poverty (logged)	-0.02	-0.06	-0.10	0.07	-0.03	-0.05	-0.23	-0.03	0.05	0.04
Measure	11	12	13	14	15	16	17	18	19	
11. Trade/Some college	1.00									
12. College	-0.18	1.00								
13. Graduate	-0.09	-0.04	1.00							
14. Divorced/separated/widowed	0.04	0.06	0.04	1.00						
15. Never married	0.01	-0.13	-0.14	-0.64	1.00					
16. Has children	-0.07	-0.01	0.02	0.23	-0.36	1.00				
17. U.S. Citizen	0.10	-0.07	-0.04	0.03	0.13	-0.08	1.00			
18. ACS Unemployed (logged)	0.05	-0.03	0.01	0.01	0.01	0.03	0.09	1.00		
19. ACS Below poverty (logged)	-0.13	-0.04	-0.06	0.00	0.02	0.14	-0.04	0.23	1.00	

$N=1,731$

**Appendix H: Correlation Table of Independent Variables and
Dependent Variables Included in Administrative Data
Regression Analyses**

Table H.1: Administrative Data Dependent and Independent Variables Correlations

<i>Independent Variables</i>	Initial Court Decision ^a		Final Bail Outcome ^a		Money Bail Outcome ^b		Money Bail Amount (logged)		Length of Pre-trial Incarceration (logged)	
1. Transient	-0.01		-0.09		-0.12		-0.07		0.07	
2. Employed	-0.01		0.04		0.12		0.07		-0.12	
3. Length of time at residence (logged)	0.01		0.03		-0.02		0.02		-0.04	
4. Risk level	-0.13		-0.12		-0.14		0.04		0.25	
5. Age (divided by 10)	0.01		-0.06		-0.11		0.05		0.05	
6. Male	-0.04		-0.07		-0.07		0.07		0.10	
7. White	-0.02		0.00		-0.04		0.03		-0.02	
8. Asian	0.04		0.02		0.05		0.01		-0.02	
9. Hispanic	-0.06		-0.05		0.04		0.04		-0.02	
10. High school/GED	0.00		0.00		-0.04		-0.03		0.04	
11. Trade/Some college	-0.01		0.02		0.04		0.03		-0.05	
12. College	0.00		0.03		0.05		0.03		-0.05	
13. Graduate	-0.02		0.04		0.01		0.02		-0.02	
14. Divorced/separated/widowed	0.00		0.00		-0.04		0.03		0.02	
15. Never married	0.02		0.01		-0.02		-0.10		0.01	
16. Has children	0.02		-0.02		-0.02		0.07		0.06	
17. U.S. Citizen	-0.10		0.01		-0.05		-0.01		0.03	
Sample size	n=1,222		n=2,245		n=1,674		n=1,687		n=2,216	

^a 0=No bail, 1= Money bail ^b 0=No pay/stay, 1=Pay/leave

**Appendix I: Correlation Table of Dependent and Independent
Variables including American Community Survey Variables
Included in Administrative Data Regression Analyses**

Table I.1: Administrative Data Dependent and Independent and ACS Variable Correlations

<i>Independent Variables</i>	Initial Court Decision ^a		Final Bail Outcome ^a	Money Bail Outcome ^b	Money Bail Amount(logged)	Length of Pre-trial Incarceration(logged)
	Decision ^a		Outcome ^a	Outcome ^b		
1. Transient	0.01		-0.09	-0.06	-0.10	0.05
2. Employed	-0.01		0.04	0.10	0.08	-0.11
3. Length of time at residence (logged)	-0.01		0.04	-0.03	0.02	-0.04
4. Risk level	-0.10		-0.12	-0.11	0.07	0.24
5. Age (divided by 10)	0.02		-0.06	-0.07	0.05	0.04
6. Male	-0.01		-0.05	-0.08	0.08	0.11
7. White	-0.06		0.00	-0.03	0.05	0.00
8. Asian	0.02		0.01	0.05	0.02	-0.03
9. Hispanic	-0.05		-0.05	0.05	0.04	-0.03
10. High school/GED	0.02		-0.02	-0.05	-0.01	0.06
11. Trade/Some college	0.01		0.03	0.03	0.03	-0.06
12. College	-0.01		0.03	0.05	0.01	-0.04
13. Graduate	-0.03		0.03	0.01	0.01	-0.01
14. Divorced/separated/widowed	-0.00		0.00	-0.03	0.06	0.02
15. Never married	0.03		-0.01	-0.04	-0.11	0.01
16. Has children	0.04		-0.03	-0.02	0.08	0.06
17. U.S. Citizen	0.00		0.03	-0.04	0.01	0.01
18. ACS Unemployed (logged)	0.04		0.05	-0.03	-0.04	0.01
19. ACS Below poverty (logged)	0.05		0.04	0.02	-0.01	-0.01
Sample size	n=907	n=1,731	n=1280	n=1,303	n=1,709	

^a 0=No bail, 1=Money bail ^b 0=No pay/stay, 1=Pay/leave

Biography

Catherine S. Kimbrell received her Bachelor of Science in Justice Studies and Modern Foreign Languages (German) from James Madison University in 2007. She received her Master of Arts from John Jay College of Criminal Justice in 2011.