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October 26, 2021

To: Supervisor Hilda L. Solis, Chair  
Supervisor Holly J. Mitchell  
Supervisor Sheila Kuehl  
Supervisor Janice Hahn  
Supervisor Kathryn Barger

From: Fesia A. Davenport  
Chief Executive Officer

## REPORT BACK ON DATA COLLECTION TO SUPPORT PRETRIAL REFORM IN LOS ANGELES COUNTY (ITEM NO. 3, AGENDA OF AUGUST 4, 2020)

The attached report is in response to a Board of Supervisors' (Board) motion, directing the Chief Executive Officer to:

1. Partner with County of Los Angeles' (County) departments, and other agencies that work with individuals involved in the justice system, and report back with information on the following, broken down by demographic characteristics and case charges, and with comparisons before and after the start of the COVID-19 pandemic (pandemic): the population incarcerated during the pretrial period; the population released during the pretrial period; cases referred to, applied, denied, and released by various pretrial reform efforts that were implemented during the pandemic; supportive services provided to individuals released during the pretrial period; and justice involvement outcomes for defendants during the pretrial period and after case adjudication; and
2. Consider incorporating the corresponding metrics into those to be reported as part of the Justice Metrics Framework (JMF) Initiative.

The report addresses Item 1 through analyses of the requested information and identification of key takeaways to inform pretrial reform efforts. The report was developed by the Office of the Chief Information Officer (OCIO) staff, in collaboration with a working group that included representatives from the Departments of Alternate Public Defender; County Counsel; District Attorney; Health Services/Correctional Health Services and Office of Diversion and Reentry; Mental Health; Probation; Public Defender; Sheriff;

Each Supervisor  
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Information Systems Advisory Board; as well as Los Angeles Superior Court; County Prosecutors Association; County Bar Association; The Bail Project; Center for Court Innovation; Dignity and Power Now; Frontline Wellness Network; JFA Institute; Project 180; and Vera Institute of Justice.

As directed by the Board motion, OCIO will continue to provide quarterly updates on the metrics included in the report. In addition, OCIO will address Item 2, in conjunction with the alignment of JMF and the Alternatives to Incarceration Initiative.

Should you have any questions concerning this matter, please contact me or Ricardo Basurto-Davila, Principal Analyst, at (213) 253-5636 or [rbasurto@ceo.lacounty.gov](mailto:rbasurto@ceo.lacounty.gov).

FAD:JMN:TJM  
PL:RBD:pa

#### Attachment

- c: Executive Office, Board of Supervisors
- County Counsel
- District Attorney
- Sheriff
- Alternate Public Defender
- Health Services
- Mental Health
- Probation
- Public Defender
- Countywide Criminal Justice Coordinating Committee
- Information Systems Advisory Board



Attachment

# Data Collection to Support Pretrial Reform

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September 2021



**CEO**  
Chief Executive Office  
COUNTY OF LOS ANGELES

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## Preface

On August 4, 2020, the County of Los Angeles (County) Board of Supervisors (Board) approved a motion by Supervisors Sheila Kuehl and Hilda Solis, directing the County's Chief Executive Office (CEO) to report back in 270 days, and quarterly thereafter, with a report with information to support future pretrial reform efforts.

More specifically, the Board motion requested information on the following, broken down by demographic characteristics and case charges, and with comparisons before and after the start of the COVID-19 pandemic (pandemic):

- The population incarcerated during the pretrial period;
- The population released during the pretrial period;
- Cases referred to, applied, denied, and released by various pretrial reform efforts that were implemented during the pandemic;
- Supportive services provided to individuals released during the pretrial period; and
- Justice outcomes for defendants during the pretrial period and after case adjudication.

This report constitutes CEO's first report back to the Board. As required by the motion, the information in this report will be updated quarterly. In addition, information not included here because we were unable to access the required data will be added in future updates as possible. The development of this report was guided by a working group composed of representatives from the following County departments and external partners:

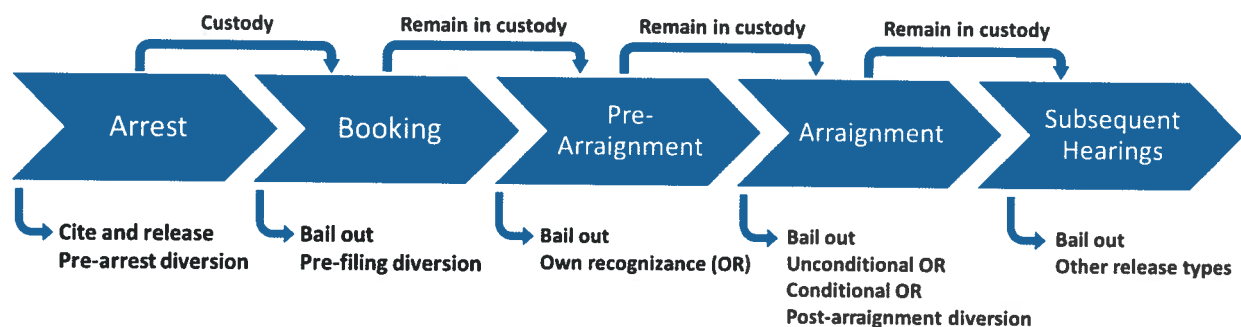
- Alternate Public Defender
- Center for Court Innovation
- County Bar Association
- County Counsel
- County Prosecutors Association
- Dignity and Power Now
- District Attorney
- Frontline Wellness Network
- Health Services, Correctional Health Services
- Health Services, Office of Diversion and Reentry
- Information Systems Advisory Board
- JFA Institute
- Mental Health
- Probation
- Project 180
- Public Defender
- Sheriff
- Superior Court
- The Bail Project
- Vera Institute of Justice

## Executive Summary

**Definitions** of key terms can be found in the *Glossary* section.

Each year, well over 100,000 individuals are arrested in the County. When a person is arrested, they may be held in custody or released while they wait for their case to be resolved (i.e., during *the pretrial period*). As shown in the figure below, whether a person is released during the pretrial period depends upon a series of decisions made by law enforcement and judicial officers. Statutes, bail guidelines, and a person’s ability to post bail or bond also influence pretrial release. Additionally, the step in the pretrial process in which a release occurs (including those due to interventions and pretrial reform efforts) partially determines how long the person is held in custody.

Figure 0-1 Simplified Illustration of Pretrial Process and Release Points



Pretrial release decisions can have significant impacts on the life of individuals charged with the crime, case outcomes, and costs to the County. This report seeks to provide information to the Board and the County’s justice partners on the characteristics of the pretrial population, pretrial release decisions, programs targeting pretrial populations, and justice outcomes for individuals released pretrial, before and after the start of the pandemic. This information—to be updated quarterly—will support decision-making for future pretrial reform efforts.

### Main Takeaways for Decision-Makers

- The proportion of criminal cases in the County with pretrial release increased in recent years, a trend that started long before the onset of the pandemic;
- This increase in pretrial releases does not seem to have affected court appearances or public safety, as rates of failure to appear (FTA) in court and of rearrest for new offenses largely remained constant;
- The onset of the pandemic exacerbated pre-existing trends in pretrial releases, leading to steep increases in the proportion of individuals released pretrial, especially among those charged with felonies;
- After the start of the pandemic, FTA and rearrest rates for individuals charged with misdemeanors dropped considerably and remained below pre-pandemic levels through the end of 2020;
- For individuals charged with felonies and released on citations or own recognizance (OR), FTA and rearrest rates increased sharply after the start of the pandemic, but those increases were temporary, such that by the end of 2020, both rates were almost back to pre-pandemic levels, even though the proportion of pretrial releases for felony cases remained high. The increases in FTA and rearrest rates may be due to higher proportion of certain characteristics associated

## Data Collection to Support Pretrial Reform

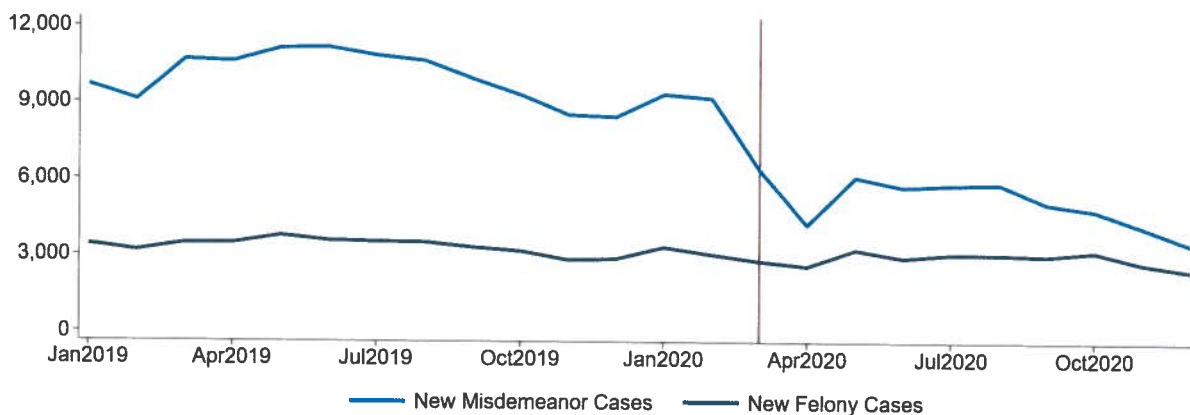
with higher FTA and rearrest rates in the post-pandemic release cohorts, such as being in the age 25-36 age group and having nonviolent offense charges; however, data limitations and the complex situation that arose during the pandemic make it difficult to extricate with certainty the factors behind these increases;

- Individuals released through the Pretrial Release Evaluation Program (PREP) pilot, which uses risk assessments to support release decisions, had similar FTA and rearrest rates to those of the overall released population;
- Individuals released through recent justice reform efforts and who received supportive services after their pretrial release (e.g., clients of The Bail Project [TBP], the Office of Diversion and Reentry [ODR], and of PREP Services provided by Project 180) had significantly more favorable pretrial outcomes than the overall population released pretrial; and
- Among pretrial release programs, PREP clients released pre-arraignment (following review of the *Public Safety Assessment, or PSA*) had the shortest custody detention period before their pretrial release (median equal to zero days), followed by PREP clients released post-arraignment (after review of the *Criminal Court Assessment Tool, or CCAT*) who had a median pretrial detention of two days. TBP's clients had a median pretrial detention length of six days. Individuals released through the ODR had significantly longer pretrial detention periods, ranging from a median of 60 days for the Maternal Health program to 166 days for the Department of State Hospitals (DSH) Diversion program.

### **Impact of the Pandemic on the County's Criminal Justice System**

The pandemic had an unprecedented impact on the County's criminal justice system. The number of new criminal cases in the data used for this report dropped by 34% from 2019 to 2020. As shown below, the drop in criminal cases was largely due to a 42% decrease in new misdemeanor cases, as new felony cases remained roughly constant at around 3,000 per month through 2019 and 2020.

Figure 0-2 Monthly New Criminal Cases Before and After Start of the Pandemic, by Case Charge Level, 2019-2020



The decrease in misdemeanor cases may be partly due to delays by prosecutors in filing charges, which means the number of cases in 2020 may increase in future updates to this report. However, we also found a decrease of 26% in the overall number of bookings and cite/releases, which suggests law enforcement agencies may have used discretion in not pursuing arrests for certain offenses after the start of the pandemic.

The pandemic also had a significant impact on law enforcement and judicial pretrial release decisions. In the two years before the pandemic, 68% of defendants were released pretrial (including cite/releases); this proportion increased to 79% during the 10 months following the start of the pandemic. Broken down by charge levels, pretrial releases for misdemeanor cases increased from 75% to 87% of all cases; for felony cases, they increased from 47% to 66% of all cases.

## Data Collection to Support Pretrial Reform

### **Characteristics of the Pretrial Population 2018-2020**

This report includes 431,101 criminal cases with pretrial periods starting between January 2018 and December 2020. The data includes all criminal cases regardless of the booking location, and thus cannot be compared to other related efforts that rely on data from jails operated by the Sheriff's Department.<sup>1</sup> Not included here are *non-Sheriff* cite/releases and cases for which we were unable to connect the corresponding court and booking records.

Individuals in the pretrial population were mostly male (81%), young (70% were aged 39 or younger), and largely composed of minority racial/ethnic groups (21% were Non-Hispanic Black and 61% were Hispanic). In addition, significant proportions of individuals in the pretrial population were from vulnerable groups: 25% had been diagnosed with severe mental illness (SMI) and 6% had experienced chronic homelessness. Despite the considerable changes in the number of cases and pretrial releases described above, the characteristics of individuals in the pretrial population before and after the start of the pandemic were remarkably similar.

### **Detentions During the Pretrial Period**

Over the 2018-2020 period, defendants were held in custody during the pretrial period in 26% of criminal cases.<sup>2</sup> Compared to the overall pretrial population, individuals held in custody during the pretrial period were more likely to be male, had a similar age distribution, and were more likely to be Non-Hispanic Black. In addition, they were more likely to have a SMI diagnosis and to have experienced chronic homelessness. Felony cases accounted for 40% of those detained during the pretrial period, compared to 27% of all cases in the data.

The median time in pretrial custody for individuals who were detained during the pretrial period was 15 days; median time in pretrial detention was longer for individuals aged 25 and younger, those aged 65 and older, Non-Hispanic Blacks, and Non-Hispanic Asians. The longest median time in custody among individuals detained during the pretrial period was for those charged with felony offenses (62-days vs. 5-days for those charged with misdemeanors).

### **Pretrial Releases**

Over the 2018-2020 period, individuals were released pretrial in 70% of criminal cases. Half of all pretrial releases were *cite/releases*; 19% were *OR* releases; 16% were *bail/bond* releases; and the remaining 15% were releases under various *other* conditions, such as supervised release, releases to rehabilitation facilities, or releases to "suitable placement."

There was significant variation in the characteristics of individuals released under the different types of pretrial release. For example, women were more likely to be cited/released or released *OR* than men, and Non-Hispanic Black individuals were underrepresented among *cite/releases*.

Excluding *cite/releases*, most of which are released on the field with no detention, the shortest pretrial detention was for individuals released under *OR* and on *bail/bond* (median equal to one day), and longest for individuals released under the "other" type of pretrial release, who had a median detention length of eight days.

The proportion of cases with pretrial release increased slowly but steadily before the pandemic, from 65% of new cases in January 2018 to 71% of new cases in January 2020. The onset of the pandemic exacerbated this trend, leading to significant increases in *cite/releases* and *OR* releases through June 2020. The figure below shows the proportion of new monthly cases that were released pretrial. The increase in pretrial releases during the pandemic was particularly remarkable for *felony cases*; for

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<sup>1</sup> These efforts include the Men's Central Jail Closure Workgroup and the Jail Population Review Council.

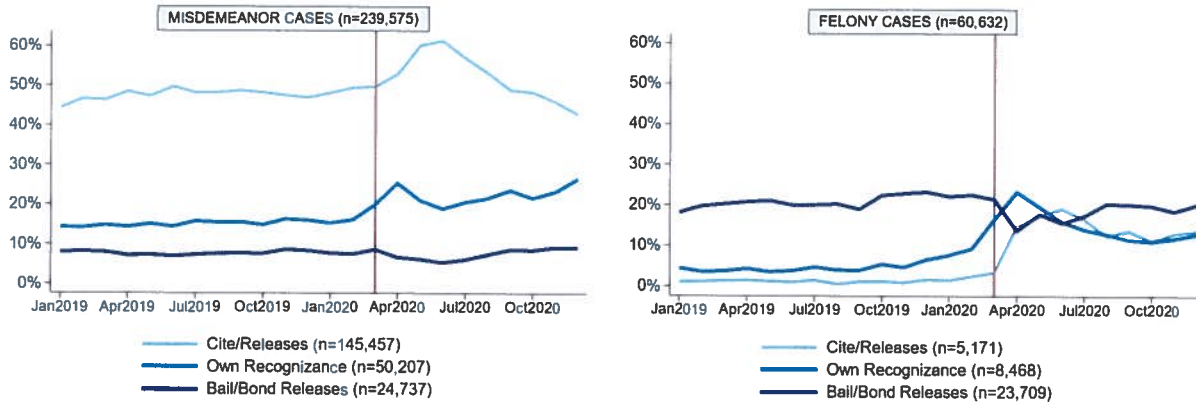
<sup>2</sup> This includes cases in which the person was in custody and the pretrial period had not ended when we did the analyses.



## Data Collection to Support Pretrial Reform

example, the proportion of new felony cases with cite/release grew from 2.6% in February 2020 to 19.3% in June 2020.

Figure 0-3 Proportion of New Criminal Cases Released During the Pretrial Period, by Type of Release



NOTE: For clarity, figure does not include the "Other" type of pretrial releases

### Pretrial Release Efforts and Supportive Services for Individuals Released Pretrial

PREP is a pilot program in which judicial officers rely on risk assessments to make pretrial release decisions in two separate stages. In the first stage, pre-arraignment, the *PSA* is used to produce risk scores of FTAs in court, new criminal activity, and new violent criminal activity. In the second stage, a subset of cases not released pre-arraignment are assessed using the *CCAT*, which also produces a reoffending risk score but is also designed to identify criminogenic and clinical needs (e.g., employment or mental health needs).<sup>3</sup> Since its implementation in March 2020 and through the end of 2020, PREP led to 3,213 pretrial releases, 60% of them pre-arraignment and the rest post-arraignment. Compared to other pretrial releases, PREP releases were younger, less likely to be Non-Hispanic Black (pre-arraignment only; post-arraignment releases were more likely to be Non-Hispanic Black), and more likely to have been charged with a felony offense (post-arraignment only; pre-arraignment releases had similar felony proportions to other pretrial releases).

TBP, a national nonprofit with the mission to end cash bail and prove that it is unjust and unnecessary, provides free bail assistance and community-based services to low-income people held in custody pretrial and who have been deemed eligible for bail, helped secure the release of 269 cases in 2020. Most of those releases were in the second half of the year. Compared to others released pretrial, TBP's clients were younger, more likely to be Non-Hispanic Black, to have been diagnosed with SMI, and to have been charged with a felony offense.

Among the pretrial release efforts described above, PREP pre-arraignment releases (i.e., after *PSA* review) had the shortest median length of pretrial detention (zero days), followed by PREP post-arraignment (after *CCAT* review) releases (two days). TBP clients, who are only released post-arraignment and require referrals from defense attorneys to TBP, had a longer median detention period (six days) and a significantly wider range of detention length, with a 75<sup>th</sup> percentile of 31 days, compared to one and four days for PREP pre- and post-arraignment releases, respectively.

The ODR manages five diversion programs that provide services to individuals released pretrial: *DSH Diversion*; *Misdemeanor Incompetent to Stand Trial-Community Based Restoration (MIST-CBR)*; *Felony Incompetent to Stand Trial (FIST-CBR)*; *Maternal Health*; and *ODR Housing*.<sup>4</sup>

<sup>3</sup> The *CCAT* was designed to inform not pretrial release, but to help determine the level of supervision and support that individuals should receive while on pretrial release.

<sup>4</sup> ODR also helps secure its clients' release and thus could be considered among the release efforts discussed above.

## Data Collection to Support Pretrial Reform

ODR programs enrolled 1,430 individuals released pretrial during 2018-2020, about 400 of them after the start of the pandemic. There was significant variation in client characteristics across ODR programs; in general, however, compared to other individuals released pretrial, ODR clients were more likely to be female, Non-Hispanic Black, diagnosed with SMI, and to have experienced chronic homelessness.<sup>5</sup>

Individuals released post-arraignment through PREP on supervised release, and who have been identified to have certain needs by the CCAT (education, employment, housing, mental health, trauma, and substance abuse) are referred to voluntary supportive services operated by Project 180. After the CCAT's initial implementation in June 2020 and through the end of the year, 234 individuals enrolled in PREP supportive services. Compared to other individuals released pretrial, clients of PREP supportive services were younger, more likely to be Non-Hispanic Black, and more likely to have been charged with a felony. Even though not all PREP referrals enrolled in Project 180's supportive services, clients of these services had the same median detention length as PREP post-arraignment releases (two days). On the other hand, ODR clients had substantially longer pretrial detention lengths, with medians ranging from 60 days for Maternal Health to 166 days for DSH Diversion.

### ***Pretrial Outcomes for Individuals Released Pretrial***

When a person is released pretrial, they are required to attend all court hearings related to their case. FTA in court is a commonly used outcome metric for pretrial reform efforts. We estimated rates of FTA and rearrest for new offenses during the pretrial period for all cases with pretrial release. Among all pretrial releases, 45% had at least one FTA and 34% were rearrested for a new offense during the pretrial period.<sup>6</sup> FTA and rearrest rates varied significantly with the type of pretrial release. The highest FTA rate was for individuals released on citations (58%), followed by those released OR (39%), those released under the "other" pretrial release type (30%), and bail/bond releases (24%).<sup>7</sup> The rate of rearrests for new offenses was highest for the "other" group (54%), followed by cite/releases (36%), OR releases (26%), and bail/bond releases (21%).

FTA rates were higher for women, individuals aged 26-39, Hispanics, those diagnosed with SMI, and those who have experienced chronic homelessness. Rates of rearrests for new offenses were higher for men, individuals aged between 26-39, Hispanics, those diagnosed with SMI, and those who have experienced chronic homelessness. FTA and rearrest rates varied, as most other metrics above, by charge levels, but in opposite patterns: misdemeanor cases had a *higher* FTA rate (50%) but *lower* rearrest for new offenses rates (32%) than felony releases (23% FTA and 44% rearrest rates).

As shown below, FTA rates followed different patterns by charge levels during the pandemic (the figure shows *monthly* FTA rates, which are lower than the *cumulative* rates over the life of a case mentioned above). For misdemeanor cases, FTA rates fell to near 0% in the first few months after the start of the pandemic; although they increased in the second half of 2020, they remained below pre-pandemic levels. For felony cases with cite/releases and OR releases, FTA rates increased considerably after April 2020, but these spikes were temporary, such that by the end of 2020 these rates were back to roughly levels seen pre-pandemic.

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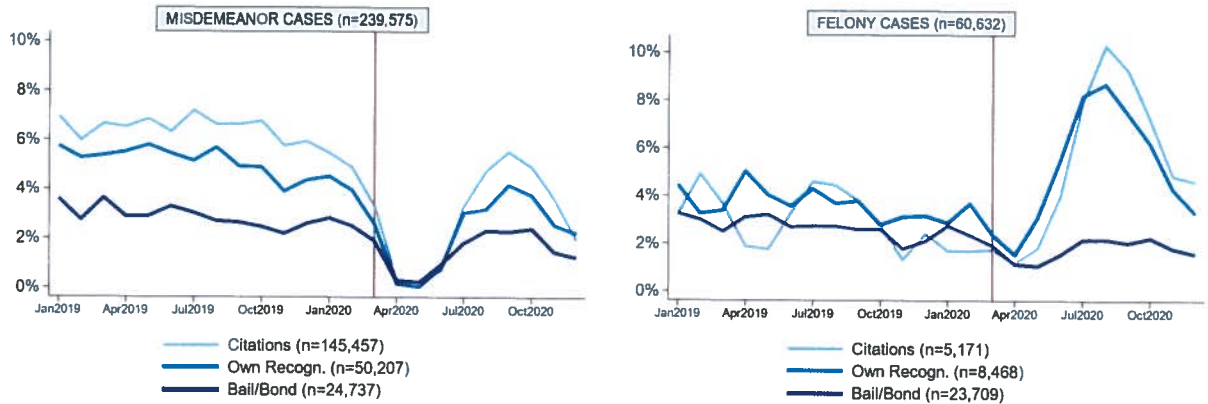
<sup>5</sup> Only ODR clients released pretrial are included here; this resulted in the exclusion of most ODR Housing and Maternal Health clients, who are usually released post-adjudication.

<sup>6</sup> The data and methods used to estimate FTAs and rearrests vary significantly. In Section VI, we summarize how our estimates compare to those from other similar studies.

<sup>7</sup> Bail/bond releases include individuals who paid their own bail, those whose bond was paid by the bail bond industry, and clients of TBP.

## Data Collection to Support Pretrial Reform

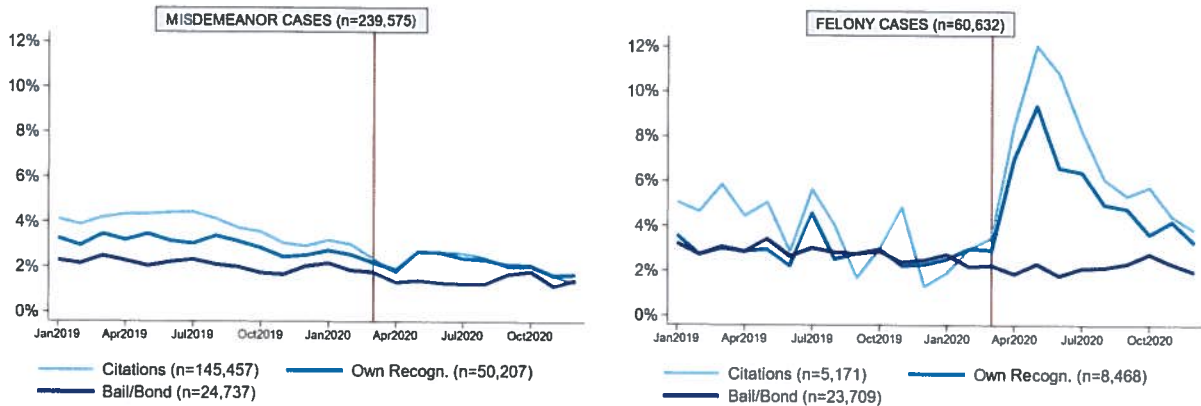
Figure 0-4 Percent of Released Cases with a Failure to Appear in Court, by Charge Level and Type of Release



**NOTE:** For clarity, figure does not include the “Other” type of pretrial releases

Rearrest rates (shown in the figure below) for misdemeanor cases followed a different pattern, decreasing after the start of the pandemic and remaining low through the rest of 2020. Among felony cases, the patterns for rearrest rates were similar to those for FTA rates, with large increases for cite/releases and OR releases shortly after the start of the pandemic, subsequently decreasing back to their pre-pandemic levels by the end of 2020.

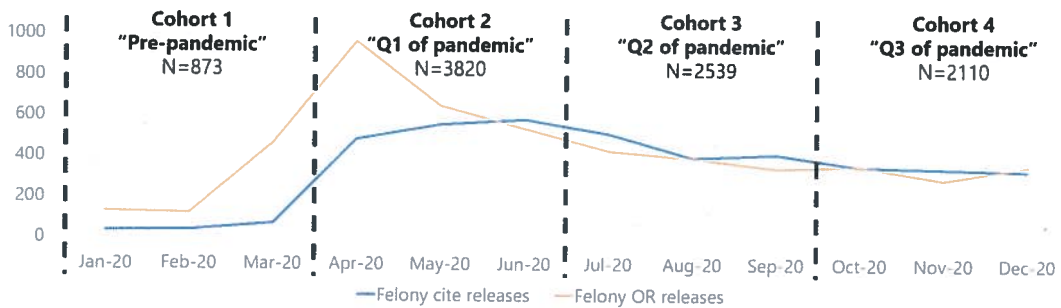
Figure 0-5 Percent of Released Cases with a Rearrest for a New Offense, by Charge Level and Type of Release



To understand whether there are pre- vs post-pandemic changes in characteristics of felony cases released on cite and OR and whether these changes are associated with differential pretrial outcomes seen for this subgroup, we examined the characteristics and pretrial outcomes of felony cite/releases and OR release cohorts at different times before and during the pandemic. As shown in the figure below, we split felony cite and OR releases in 2021 into four cohorts, each cohort consisting of felony cases released cite or OR in each quarter of 2021.

## Data Collection to Support Pretrial Reform

Figure 0-6 Pre- and Post-Pandemic Cohorts of Felony Cases Released on Cite/Releases and OR



FTA and rearrest rates for post-pandemic cohorts are higher than for the pre-pandemic cohort. However, while rearrest rates trend down for successive post-pandemic cohorts, approaching the pre-pandemic cohort level, FTA rates do not show the same trend for the post-pandemic cohorts.

Cohorts released post-pandemic skew more male and Hispanic, with a higher proportion of those in the age 26-39 category. Additionally, cohorts released post-pandemic are more likely to have been originally charged for nonviolent offenses, with a higher proportion of property crimes. Many of these characteristics are associated with higher FTA and rearrest rates in the overall pretrial release population; a higher proportion of individuals with these characteristics may also contribute to the higher FTA and rearrest rates seen in the post-pandemic felony cite and OR release cohorts.

While examining changes in cohort characteristics provides some insight into the increases in FTA and rearrest rates, since there are many external factors at play during this period, it is difficult to truly extricate the factors behind the increases in pretrial outcome rates for this subgroup of pretrial releases.

Individuals released through, or who received supportive services from, justice reform programs had lower FTA and rearrest rates than the overall population released pretrial. The lowest FTA and rearrest rates were for ODR clients (FTA and rearrest rates varied by ODR program, but they were all below the overall average for pretrial releases; for example, the FTA rate for FIST-CBR was 4%, while for DSH Diversion was 27%). The second lowest FTA and rearrest rates were for TBP clients. For PREP releases, FTA and rearrest rates were similar for those released pre- and post-arraignment, although there were some differences by case charge levels (not shown below): felony releases had better outcomes if they were post-arraignment releases (after CCAT review), while misdemeanor releases had better outcomes if they were released pre-arraignment (after review of PSA scores).

Table 0-1 Justice Outcomes for Clients of Pretrial Reform Efforts, 2018-2020<sup>8</sup>

	Failed to Appear in Court	Rearrested for a New Offense
<b>All Pretrial Release (n=302,411)</b>	<b>45%</b>	<b>34%</b>
TBP Clients (n=321)	21%	23%
PREP Releases (n=2,352)	42%	30%
ODR Clients (1,298)	8%	19%
PREP Services Clients (n=234)	27%	28%

<sup>8</sup> The table includes only cases that we were able to link to our pretrial sample.

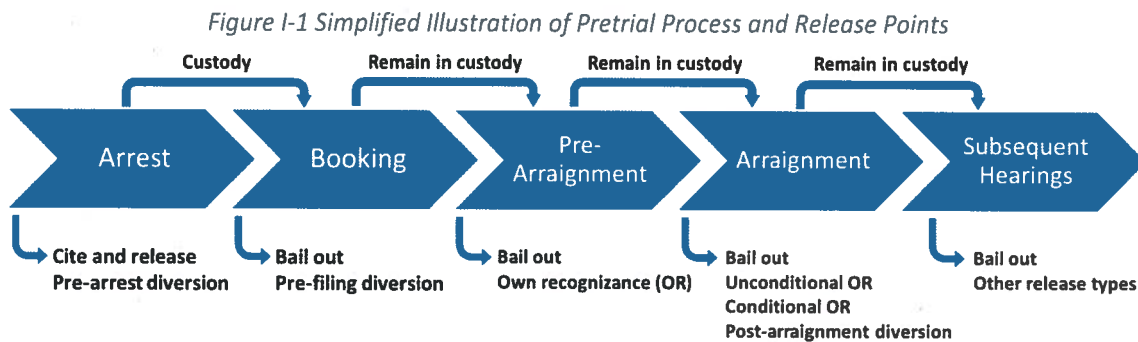
## Section I. Introduction

**Definitions** of key terms can be found in the *Glossary* section.

### Importance of Pretrial Decision-Making

When a person is arrested, they may be held in custody while they wait for their case to be resolved. The time between the initial arrest and the resolution of the case is called the *pretrial period*.<sup>1</sup> Some individuals are detained in custody (*pretrial detention*) throughout the entire pretrial period, others are released (*pretrial releases*) under various conditions at different stages of the pretrial period, and others are held in custody until they are transferred to other jurisdictions (*pretrial transfers*).

As shown in the figure below, whether a person is released or held in custody during the pretrial period depends upon a series of decisions made by law enforcement and judicial officers. Statutes, bail schedules, and a person's ability to post bail or bond also influence whether a person is released or not. In addition, the step in the process in which a person is released partially determines the length of detention in custody; for example, those released post-arraignment will usually spend more time in custody than those released shortly after being booked.



Release decisions can have a significant impact on the life of the person charged with the crime (e.g., employment, housing, child custody, family well-being, or mental health) and on costs to the County. In addition, pretrial detention could impact the outcome of the case, as studies have shown that individuals detained pretrial are more likely to plead guilty, to be convicted, and to receive a longer sentence.

### Impact of the COVID-19 Pandemic on the Justice System

The potential consequences of pretrial detention became even more exacerbated with the onset of the pandemic in 2020. Jails and prisons were quickly identified as sites at high risk for virus outbreaks, which prompted Federal, state, and local governments around the United States to implement efforts to reduce the number of incarcerated individuals. In the County, shortly after the start of the pandemic, multiple government agencies

<sup>1</sup> Events that determine the resolution of a case include acquittal, conviction, or the dismissal of charges.

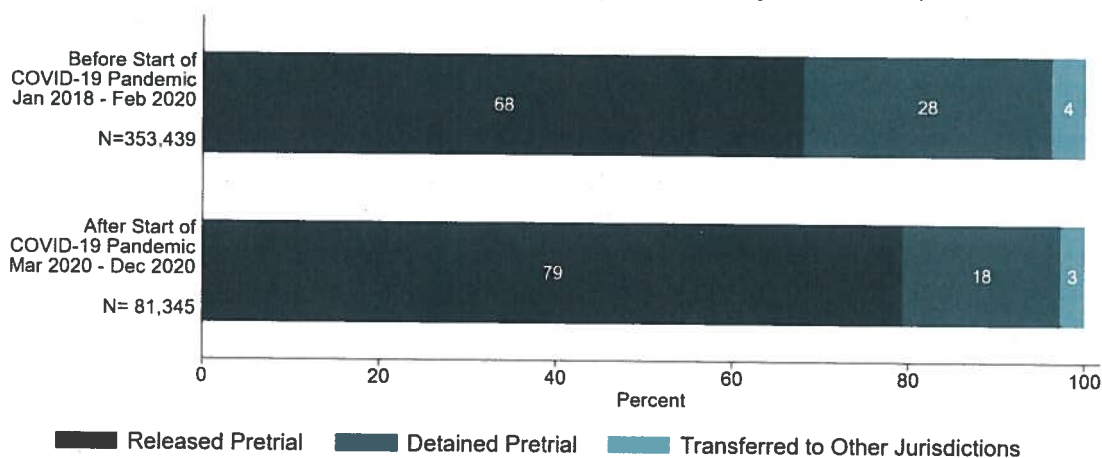
## Data Collection to Support Pretrial Reform

partnered to release incarcerated people as quickly as possible, leading to a reduction of the County’s jail population from 17,000 at the end of January to 12,000 by the start of June 2020.

As described in more detail in the next section, the reduction in the size of the jail population was due to a combination of fewer criminal cases after the start of the pandemic—presumably due to decisions made by law enforcement and prosecutors—as well as to an increase in the proportion of defendants that were released pretrial. Figure I-2 summarizes pretrial release decisions for over 430,000 criminal cases in the County between 2018 and 2020. Before the pandemic, defendants were released pretrial in just over two of three cases (68%); most other individuals (28%) were detained throughout the pretrial period. After the start of the pandemic, the proportion of cases with pretrial release increased to nearly four out of five (79%), while the proportion of individuals detained pretrial decreased to 18%.<sup>2</sup>

The increase in pretrial releases was even more remarkable for cases in which the person was charged with a felony (not shown in Figure I-2). The proportion of pretrial releases increased from less than half of felony cases (47%) before the pandemic, to two-thirds (66%) after the start of the pandemic; for misdemeanor cases, pretrial releases increased from 75% to 87% of cases between the same two periods.

Figure I-2 Percent of Criminal Cases in the County where Defendant was Released, Detained, or Transferred During the Pretrial Period, Before and After the Start of the Pandemic, 2018-2020



This unprecedented increase in pretrial releases is important not only because of its impact as a policy response to the pandemic, but also because it can help the County and its partners in the justice system derive lessons to inform future policies on pretrial release and on the provision of services to individuals released pretrial. The objective of this report is to provide the Board and the County’s justice partners with information on individual and case characteristics for:

1. Pretrial detentions and releases, before and after the start of the pandemic;
2. Pretrial releases through recent reform efforts;

<sup>2</sup> Cases in which the person was held in custody during the pretrial period, but the case had not been resolved by the time we conducted this analysis were classified as “detained pretrial.”

## Data Collection to Support Pretrial Reform

3. Connections to supportive services for individuals released pretrial; and
4. Justice involvement outcomes during the pretrial period for pretrial releases.

This information, *to be updated on a quarterly basis* per the Board motion, will be valuable for decision-makers in the development of policies to identify the largest possible number of defendants that could be considered for pretrial release, while at the same time considering public safety.

## Methodology

### Data

All analyses in this report were conducted using data in the County Information Hub (InfoHub), an information system managed by the County's Office of the Chief Information Officer (OCIO) that receives administrative records from several County departments and partner agencies.<sup>3</sup> The two main data sources for the report were the Sheriff's Automated Justice Information System (AJIS) and the Superior Court's Trial Court Information System (TCIS). AJIS captures arrest and release information for all *bookings* in the County (regardless of the law enforcement agency) and all *citations* given by the Sheriff Department. TCIS captures administrative information on all criminal cases tried in County courts.

We used AJIS data to determine the start of the pretrial period, the period in which a person was held in custody, and, for those released pretrial, the type of release. We also used AJIS data to identify bookings for reasons that fall outside of the pretrial period, such as probation and parole violations or transfer holds, to exclude them from the analyses. We used TCIS data to determine the end of the pretrial period and the charges filed for each case.

Other data used in the report included:

- InfoHub data from multiple County departments to determine the characteristics (sex, age, race/ethnicity) and vulnerable status (SMI diagnosis, history of chronic homelessness) of individuals in the pretrial population;
- Data from the Probation Department to identify cases in which the individual was released through PREP; and
- Data from programs and organizations that help release defendants during the pretrial period or provide services to them after they have been released pretrial, including TBP, ODR, and Project 180.

### Cases Included in this Report

For the purposes of this report, the *pretrial period* of a criminal case begins on the date of the first booking or citation associated to the case, and it ends when the charges are dismissed, the defendant is acquitted, or the defendant is found guilty and convicted.

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<sup>3</sup> InfoHub data was de-identified before being accessed by the staff that conducted the analyses in this report. A unique enterprise identifier (EID) allowed analysts to link the data from each person across multiple source data systems. EIDs are created using probabilistic matching, which in rare cases may result in more than one individual being associated to one EID. Additional details can be found in the Technical Appendix.

## Data Collection to Support Pretrial Reform

A case tried in the County was included in this report if it met all the following criteria:

1. The pretrial period for the case started between January 2018 and December 2020;
2. The first booking or citation associated to the case was not for reasons that occur outside the pretrial period. For example, we excluded bookings where defendants were being held to be transferred to other jurisdictions, on probation or parole holds, for flash incarcerations, or for post-sentence arrest warrants; and
3. We were able to connect the data for the first booking or citation to the corresponding data for the court case.<sup>4</sup>

The data includes criminal cases regardless of the booking location, and thus cannot be compared to other ongoing data efforts that rely only on data from jails operated by the Sheriff's Department, such as the Men's Central Jail Closure Workgroup and the Jail Population Review Council. Not included are cases with *non-Sheriff cite/releases* (due to data availability) and, as mentioned above, cases for which we were unable to connect the corresponding court and booking records.

The unit of analysis throughout this report is a criminal case. Therefore, if an individual had multiple cases over the 2018-2020 period, that person was counted as many times as they had cases. Conversely, if there were multiple pretrial releases associated to a single case, only the first release was counted.<sup>5</sup>

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<sup>4</sup> We need to connect booking and court data because we use the date of the first booking or citation for the case to determine the start of the pretrial period and we use data from the Superior Court to determine the end of the pretrial period.

<sup>5</sup> The distribution in our data of the number of cases per person and the implications of using the case as the unit of analysis are discussed in the Technical Appendix.

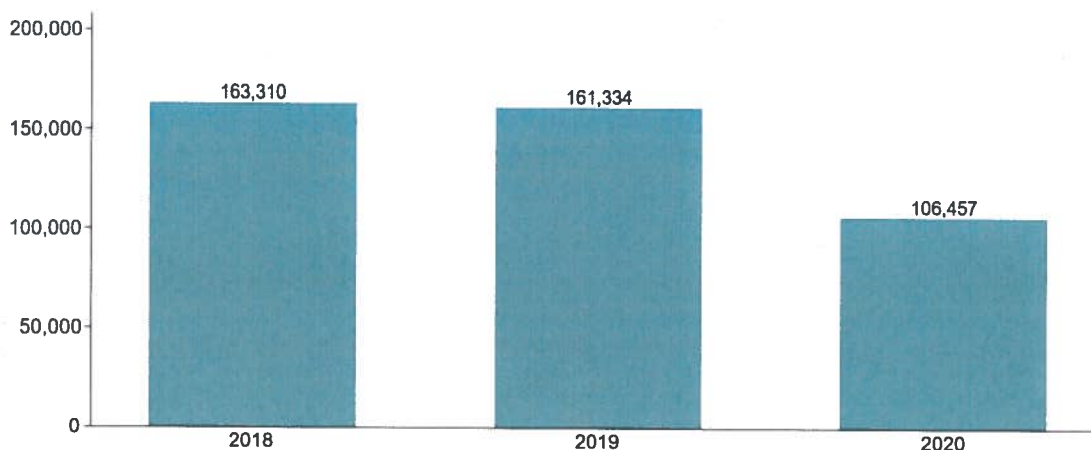


## Section II. The 2018-2020 Pretrial Population

### Criminal Justice Cases in Los Angeles County

We identified 431,101 criminal cases that met the criteria listed on the previous page. Figure II-1 shows the distribution of cases by year. While there were a similar number of cases in 2018 and 2019, the number decreased significantly in 2020, to just over 105,000 cases (a 34% drop compared to 2019).

Figure II-1 Number of New Criminal Cases in the Data Used in this Report, 2018-2020



We should note that, although the decrease in the number of cases in 2020 illustrates the impact of the pandemic (e.g., fewer arrests), it may also reflect cases from 2020 for which prosecutors have not yet filed charges and thus are not included in our data because there is no corresponding court case, even if we have data from the booking or citation. Figure II-2 illustrates more clearly how delays in the filing of charges could be affecting the number of arrests for which court cases have not been created. The graph shows the monthly number of: (1) new cases in our data; and (2) all bookings and citations in AJIS, regardless of whether we found a corresponding court case for the booking/citation.<sup>14</sup> From 2018 through the first half of 2020, the trend in the number of new cases in our data closely mirrors the trend in the number of total new bookings and citations. In the second half of 2020 the lines begin to separate, which indicates that a lower proportion of new bookings/citations are included in our sample.

The distance between the lines at the end of 2020 is most likely due to bookings/citations for which prosecutors had not yet filed charges by the time we conducted these analyses. While Figure II-1 above shows 34% fewer cases in 2020 compared to 2019 in our data, the decrease in bookings/citations in AJIS was 26%, which implies there are thousands of

<sup>14</sup> The number of bookings/citations is larger than the number of matched cases because not every arrest necessarily results in a new criminal case. For example, law enforcement may decide not to pursue a case, or prosecutors may decline to file charges. In addition, we tried to exclude non-new offenses (e.g., probation or parole violations, holds for transfers to other jurisdictions) from the orange line, but it is possible that some bookings for non-new offenses are still included in it.

## Data Collection to Support Pretrial Reform

bookings/citations in 2020 for which prosecutors may still file charges.<sup>15</sup> As prosecutors file charges for pending cases, the number of cases in 2020 in our data will increase, which will be reflected in future updates to this report.<sup>16</sup>

Figure II-2 Monthly New Cases and Bookings Before and After Start of the Pandemic, 2018-2020

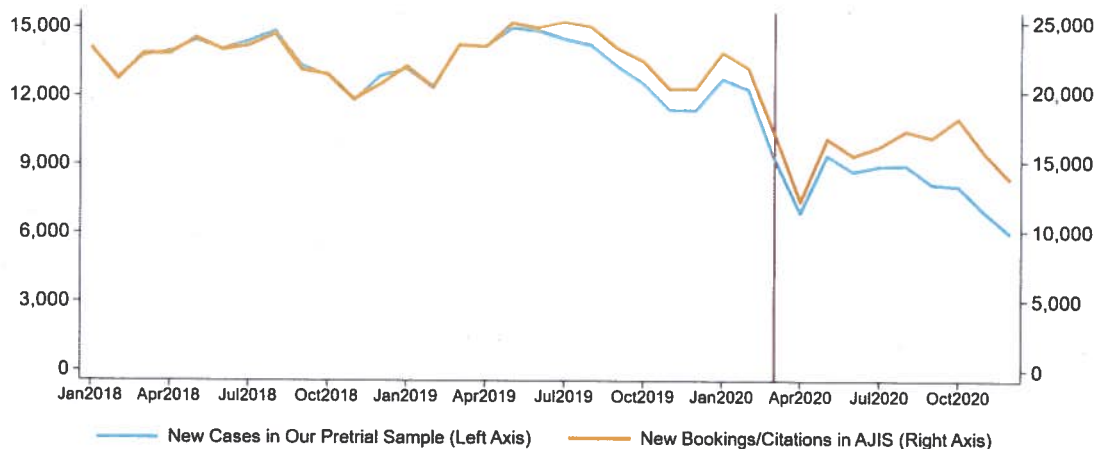


Figure II-2 above also helps illustrate the impact of the pandemic on the County’s criminal justice system. The vertical red line marks March of 2020, when, in response to the onset of the pandemic, the County’s justice partners started implementing various policies to reduce the size of the jail population. Between February and March 2020, the number of monthly new cases dropped by 25%, from 12,300 to 9,300, and dropped by yet another 25% from March to April 2020, when there were 6,900 new cases, the fewest in 2020. Although the number of new cases increased in May 2020, it remained well below pre-pandemic levels through the end of the year.

Figure II-3 below shows the number of monthly new cases (the light blue line in Figure II-2) broken down by charge level. Clearly, nearly all the decline in new cases after the start of the pandemic was due to fewer new misdemeanor cases, which decreased from 9,200 in February to 4,200 in April (a 54% drop) and remained below 6,000 through the rest of 2020. In contrast, the number of new felony cases remained roughly flat in 2020, at around 3,000 per month.

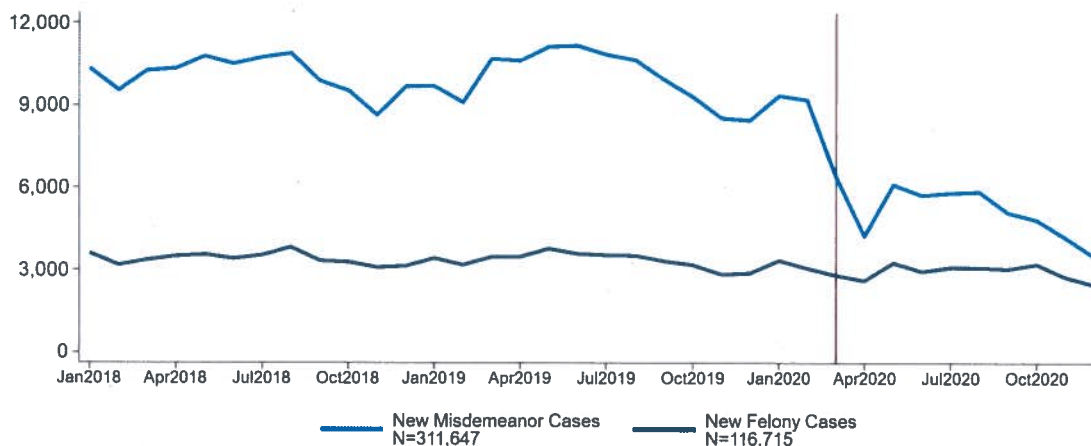
These different patterns in the number of monthly cases by charge levels could be because law enforcement applied discretion in not pursuing certain misdemeanor cases at the start of the pandemic but may also be due to differential delays by prosecutors in filing charges (i.e., prosecutors might be taking longer in filing charges for misdemeanor cases, but not for felony cases).

<sup>15</sup> Our data includes criminal complaints filed with the Superior Court through July of 2021.

<sup>16</sup> Preliminary estimates from the Superior Court indicate that the number of criminal filings decreased by 27% from 2019 to 2020, very close to the 26% drop in bookings/citations in AJIS.

## Data Collection to Support Pretrial Reform

Figure II-3 Monthly New Cases Before and After Start of the Pandemic, by Case Charge Level, 2018-2020



### Characteristics of the Pretrial Population

Table II-1 shows the demographic characteristics and charge levels of individuals in our pretrial sample. Focusing first on characteristics over the entire 2018-2020 period, shown in the last column, we see that individuals who had new criminal cases during that period were:

- Largely male (81% vs. 19% female);
- Young (70% were under 40 years of age; only 1% were aged 65 or older);
- Largely composed of minority racial/ethnic groups (21% were Non-Hispanic Black and 61% were Hispanic);
- Comprised by a significant number of individuals from vulnerable populations (25% had a diagnosis of SMI and 6% have experienced chronic homelessness); and
- Mostly charged with misdemeanor offenses (72% vs. 27% who were charged with felony offenses).

Table II-1 also shows that, despite the dramatic decrease in the number of cases shown above, there were only small changes in the characteristics of the pretrial population from before to after the start of the pandemic. Individuals with new cases after March 2020 were slightly more likely to be male and of ages 26-39 but, for the most part, individual characteristics for new cases were very similar before and after the start of the pandemic.

The most notable change from before to after the start of the pandemic was in charge levels: whereas before the pandemic, only one out of every four cases (26%) were for felony charges, after the pandemic started, the proportion of felony cases increased to 38%. As we saw in Figure II-3 above, the main reason behind this change is that the number of new misdemeanor cases decreased while the number of new felony cases remained roughly constant after the start of the pandemic.

## Data Collection to Support Pretrial Reform

Table II-1 Characteristics of Individuals in the 2018-2020 Pretrial Population, Before and After Start of the Pandemic

Characteristic	Before (2018-Feb 2020)	After (Mar-Dec 2020)	Overall
<b>Number of Cases</b>	<b>349,722</b>	<b>81,379</b>	<b>431,101</b>
<b>Sex<sup>17</sup></b>			
Male	80%	83%	81%
Female	20%	17%	19%
<b>Age Category</b>			
18-25	21%	20%	21%
26-39	48%	51%	49%
40-64	29%	28%	29%
65 and older	1%	1%	1%
<b>Race/Ethnicity</b>			
Non-Hispanic White	16%	14%	15%
Non-Hispanic Black	20%	21%	21%
Hispanic	61%	62%	61%
Non-Hispanic Asian	1%	1%	1%
Other	2%	1%	2%
Unknown	1%	1%	1%
<b>Vulnerable Groups</b>			
Diagnosed with Severe Mental Illness	25%	26%	25%
Has Experienced Chronic Homelessness	6%	5%	6%
<b>Highest Charge Level<sup>18</sup></b>			
Misdemeanor	74%	64%	72%
Felony	25%	36%	27%

### Pretrial Release Status

We categorized cases in our data into three groups, according to whether defendants were detained or released during the pretrial period:

- Released pretrial, which can happen on the field (cites/releases) or after booking;
- Detained in custody during the pretrial period; this group includes cases that have been ended, and thus individuals were detained through the duration of the pretrial period, and cases that were still ongoing at the time we analyzed the data; and
- Transfers to another jurisdiction during the pretrial period.<sup>19</sup>

Figure II-4 shows the distribution of all 2018-2020 cases in our sample among these three groups. In over two-thirds of cases (70%), the individual was released from custody during the pretrial period. In just over one out of four cases (26%), individuals were detained

<sup>17</sup> For 84 cases (0.02% of the sample) we did not have information on the sex of the defendant.

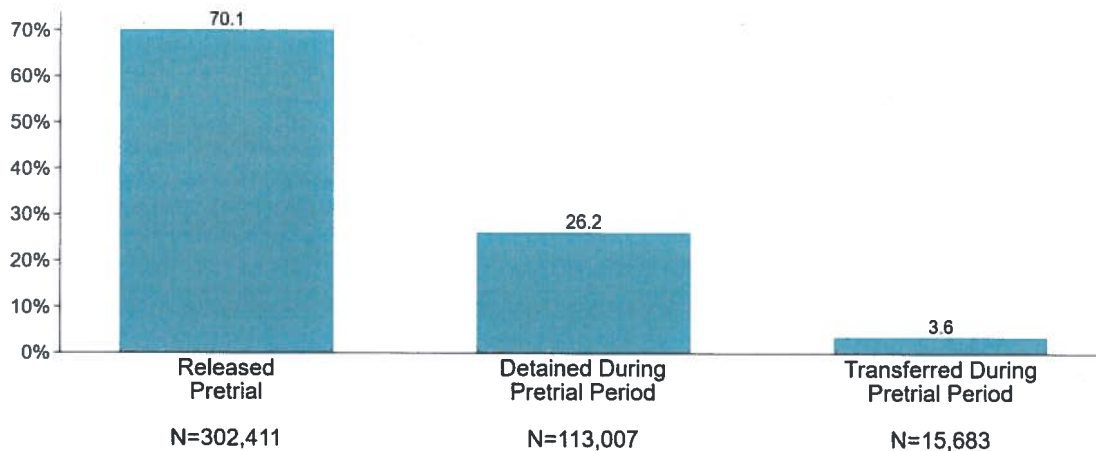
<sup>18</sup> For 2,739 cases, either the highest charge was an infraction, or charge level information was missing.

<sup>19</sup> In some cases, the release reason was coded as a transfer, but the booking was associated with a person released to an ODR diversion program. We categorized those cases as pretrial releases.

## Data Collection to Support Pretrial Reform

during the pretrial period.<sup>20</sup> Individuals in the remaining 4% of cases were transferred to another jurisdiction during the pretrial period.

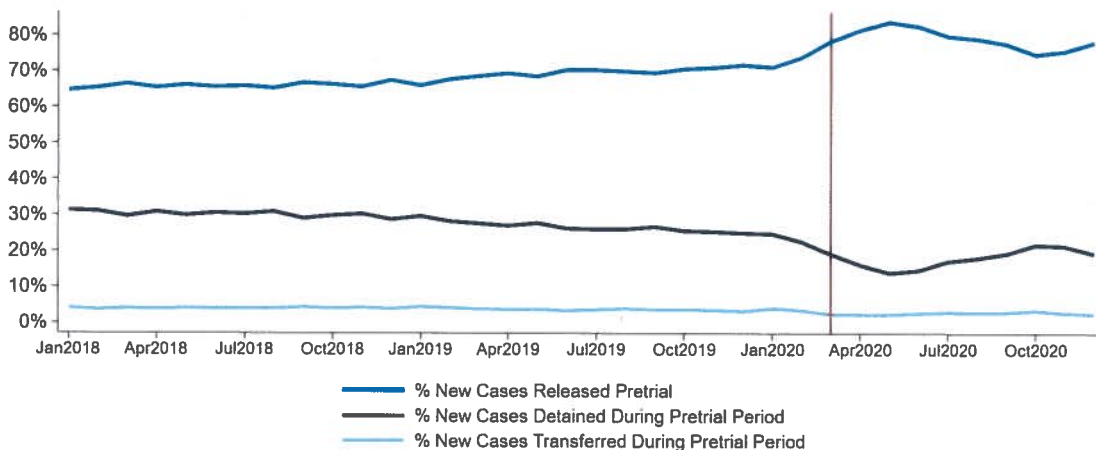
Figure II-4 Cases Included in this Report, by Pretrial Release Status, 2018-2020



## Pretrial Detentions and Releases Over Time, 2018-2020

Figure II-5 shows the proportion of monthly new cases in which the defendant was released pretrial, held in custody during the pretrial period, or transferred to another jurisdiction. An interesting trend can be seen in the graph: long before the start of the pandemic, there was a slow but steady increase in the proportion of cases with pretrial release, from 66% in January 2019 to 71% by January 2020. Upon the onset of the pandemic in March 2020, this pre-existing trend accelerated; the proportion of cases with pretrial release increased to 84% by May 2020. Although the trend began to reverse in June, by the end of the year 78% of new cases were being released pretrial, still well above pre-pandemic levels.

Figure II-5 Pretrial Release Status for New Cases, 2018-2020



<sup>20</sup> Of those detained during the pretrial period, 111,700 cases had ended, and 3,389 cases were still ongoing by the time we analyzed the data.

## Section III. Pretrial Detentions

In this section, we focus on cases in which defendants were held in custody during the pretrial period, including those who were still in custody while their cases were ongoing during the time, we conducted these analyses. For simplification, from here on, we refer to these cases as *pretrial detentions* or *detentions during the pretrial period*.

### Characteristics of Individuals Detained Pretrial

Table III-1 shows the characteristics of individuals who were detained during the pretrial period, compared to the characteristics of the overall pretrial population. We find that:

- Individuals detained during the pretrial period were more likely to be male than those in the overall pretrial population (84% vs. 81%);
- The age distribution of cases in which individuals were detained during the pretrial period was similar to the age distribution of all cases over 2018-2020;
- Individuals detained during the pretrial period were more likely (23%) to be Non-Hispanic Black than the overall pretrial population (21%);
- Individuals from vulnerable groups were overrepresented among those detained during the pretrial period when compared to the overall pretrial population; for example, in 32% of cases where individuals were detained during the pretrial period, the person had a diagnosis of SMI, compared to 25% among the overall pretrial population; and
- Case charge levels were the strongest predictor of pretrial detention: 40% of cases in which the individual was detained pretrial had felony charges, while in the overall pretrial population the proportion was only 27%; conversely, the proportion of misdemeanor charges among cases with pretrial detention was 59%, compared to 72% among all cases in our sample.

## Data Collection to Support Pretrial Reform

Table III-1 Individual Characteristics for Cases in which the Person was Detained During the Pretrial Period vs. the Overall Pretrial Population, 2018-2020

	Detained During Pretrial Period N=113,007	All Cases 2018-2020 N=431,101
<b>Sex</b>		
Male	84%	81%
Female	16%	19%
<b>Age</b>		
18-25	21%	21%
26-39	50%	49%
40-64	28%	29%
65 and older	1%	1%
<b>Race/Ethnicity</b>		
Non-Hispanic White	14%	15%
Non-Hispanic Black	23%	21%
Hispanic	60%	61%
Non-Hispanic Asian	1%	1%
<b>Vulnerable Groups</b>		
Diagnosed with Severe Mental Illness	32%	25%
Has Experienced Chronic Homelessness	8%	6%
<b>Case Charge Level</b>		
Misdemeanor	59%	72%
Felony	40%	27%

### Pretrial Detention Length by Individual Characteristics

Figure III-1 summarizes *pretrial* detention length (median, 25<sup>th</sup>, and 75<sup>th</sup> percentiles) for individuals detained during the pretrial period, broken down by the same characteristics shown in the Table III-1 above.<sup>1</sup> For each bar in the graph, the leftmost boundary represents the 25<sup>th</sup> percentile of detention length, the white mark inside the bar represents the *median* detention length, and the rightmost boundary represents the 75<sup>th</sup> percentile of detention length.<sup>2</sup> For example, the row highlighted in red (*All Cases*) shows that:

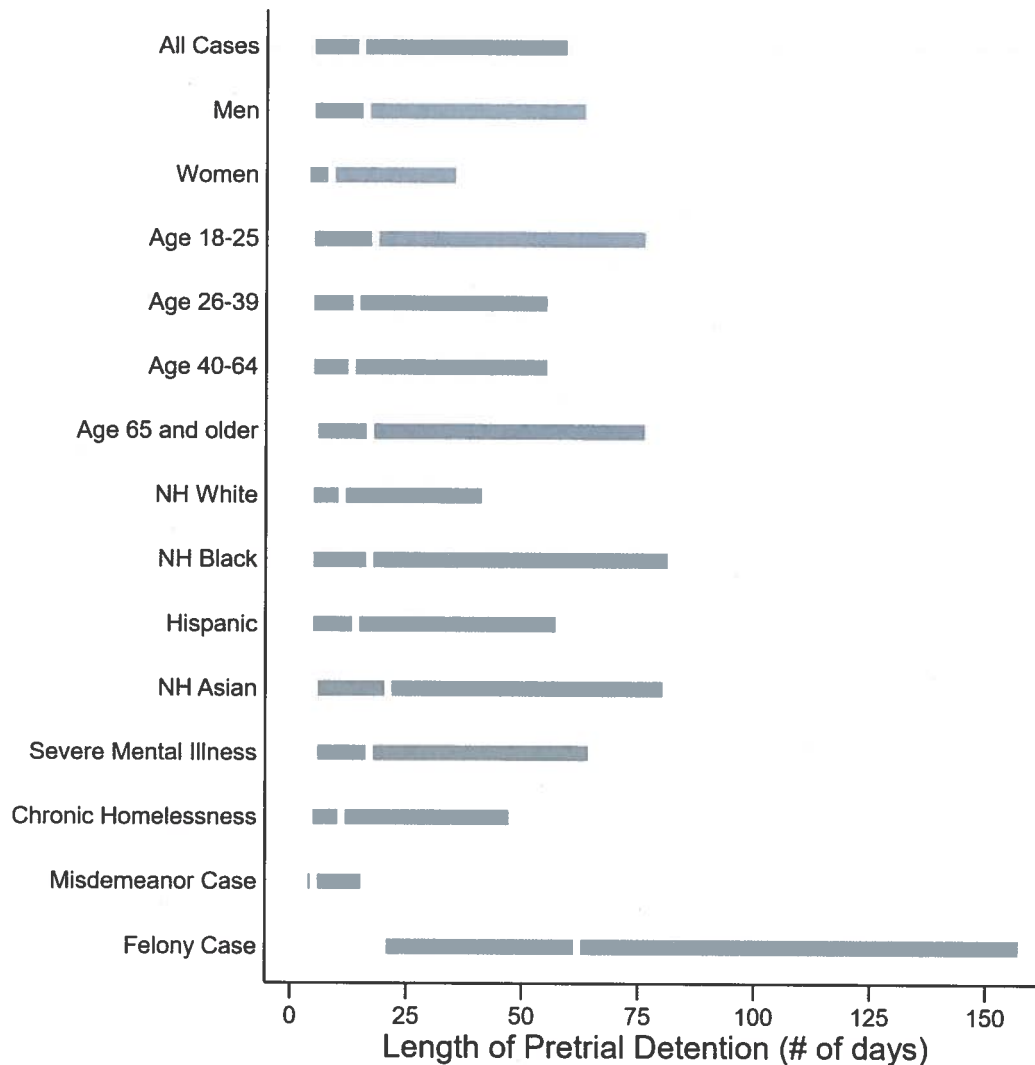
- Half of all defendants detained pretrial had a detention length of 15 or fewer days, and the other half were detained for 16 days or longer.
- 25% of all defendants detained pretrial had a detention length of four or fewer days, which means that 75% were held in custody for five days or longer.
- 75% of all defendants detained pretrial had a detention length of 62 or fewer days, which means that the other 25% were in custody for 63 days or longer.

<sup>1</sup> The pretrial detention period ends upon the case's adjudication. Therefore, for individuals sentenced to custody, *pretrial* detention length, which we report here, will be shorter than *total* detention length, which is often reported elsewhere.

<sup>2</sup> Median length of jail stay refers to the midpoint detention length, such that half of the individuals in each row had a shorter stay and the other half had a longer stay. Percentiles denote similar subdivisions at different cutoff points; for example, the 75<sup>th</sup> percentile represents the number of days in which 75% of individuals in a row had a shorter detention period and the remaining 25% had a longer detention period.

## Data Collection to Support Pretrial Reform

Figure III-1 Median, 25th, and 75th Percentiles of Detention Length for Individuals Detained Throughout the Pretrial Period, by Individual Characteristics<sup>3</sup>



Some of the patterns shown in the Figure III-1 above are similar to those we found in Table III-1 (e.g., men were more likely than women to be detained throughout the pretrial period and they also had a longer detention period), but there are a few differences:

- Individuals in the youngest (age 18-25) and oldest (age 65 and older) age groups had longer pretrial detention periods than other age groups;
- Non-Hispanic Black individuals were more likely to be detained pretrial than other racial/ethnic groups and had longer detention periods (median=17 days) than Non-Hispanic Whites (11 days) and Hispanics (14 days); notably, Non-Hispanic Asians experienced the longest median pretrial detention (21 days);

<sup>3</sup> See footnote in previous page for explanation of what the median, 25<sup>th</sup>, and 75<sup>th</sup> percentiles represent.



## Data Collection to Support Pretrial Reform

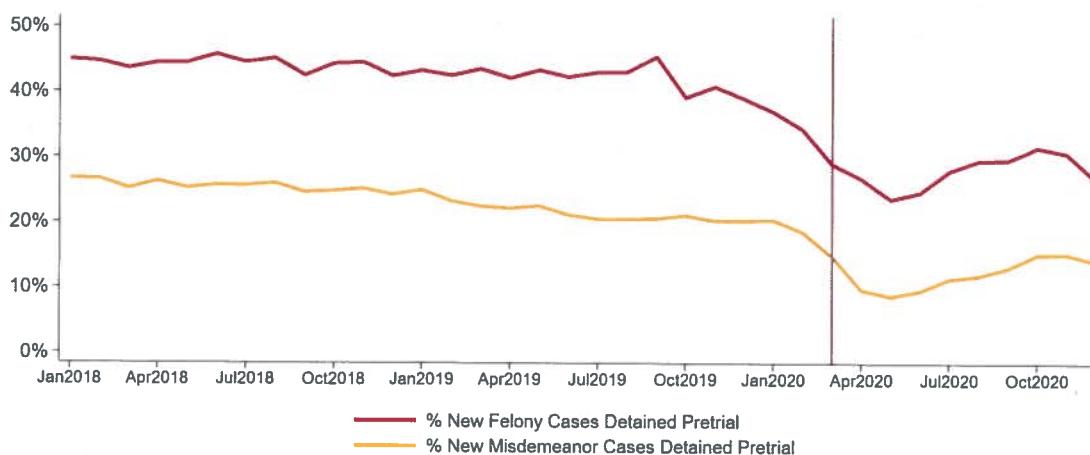
- Individuals detained during the pretrial period with SMI had longer detention periods (median=17 days) than those who have experienced chronic homelessness (median=11 days); and
- The largest predictor of length of jail stay for individuals detained during the pretrial period was, once again, the case charge level; individuals charged with misdemeanors who were detained pretrial had a much shorter detention period (median = five days) than those charged with felonies (median = 62 days); in fact, Figure III-1 shows that the bars for misdemeanor and felony cases do not overlap, which means that 75% of individuals charged with misdemeanors spent less time in detention (16 days) than the 25% of individuals charged with felonies who were released the fastest (20 days).

### Pretrial Detentions by Charge Levels Over Time, 2018-2020

In the previous section, we noted a trend in which the proportion of cases with pretrial detention began declining before the start of the pandemic. Figure III-2 below shows that this trend existed for both misdemeanor and felony cases. In January 2019, in 43% of all new *felony cases* (red line) the defendant was held in custody during the pretrial period; by January 2020, this proportion had decreased to 37%. There was a similar pattern for misdemeanor cases (orange line): at the start of 2019, 25% of individuals charged with misdemeanors were detained pretrial, whereas by January 2020, this proportion had decreased to 20%.

Also similar to what we saw in the previous section, these downward trends in pretrial detentions accelerated at the beginning of the pandemic, such that by May 2020, the proportion of cases with pretrial detention was down to 24% for felony cases (similar to the historical average for misdemeanor cases), and 9% for misdemeanor cases. Although these trends reversed in the second half of 2020, by the end of the year both proportions remained below their pre-pandemic levels.

Figure III-2 Proportion of New Monthly Cases in Which Individuals Were Detained in Custody During the Pretrial Period, by Case Charge Level, 2018-2020



## Section IV. Pretrial Releases

In this section, we focus on cases in which defendants were released during the pretrial period, breaking down individual characteristics, detention length, and trends over time by type of pretrial release.

### Types of Pretrial Release

We classified pretrial releases into four different types, according to release codes in AJIS:

- **Release on Citation (cite/release):** For certain offenses, law enforcement officers can choose not to take the individual to jail after an arrest, instead allowing him/her to leave with the promise to show up for the required court hearing(s); this type of release is normally used for minor offenses, where officers determine the individual poses no significant risk to the community.
- **Release on Own Recognizance (OR):<sup>1</sup>** This type of release can be requested after a person has been booked, usually during arraignment. Individuals released on OR do not have to make a bail payment; instead, they sign a written promise to show up for future court appearances and to comply with conditions established by court officers.
- **Bail and Bond Releases:** Court officers may require individuals who have been arrested to post security for future court appearances before being released; individuals can either pay the security in cash (*bail*), which they forfeit if they do not appear, or they can arrange for a third-party to pledge to pay the full amount if the person does not show up for court appearances (*bond*).
- **Other:** These are various other pretrial release reasons that did not fit entirely in any of the three groups above; for example, this category includes releases directly to rehabilitation facilities, releases to “suitable placement,” supervised releases, and court-ordered releases.<sup>2</sup>

Figure IV-1, shown previously, illustrates the different points during the pretrial process in which these types of releases can occur. As mentioned above, the point in which a person is released affects how long they are held in custody. This is true not only for the types of pretrial release described above, but also for the efforts to increase pretrial release that will be discussed in Section V.

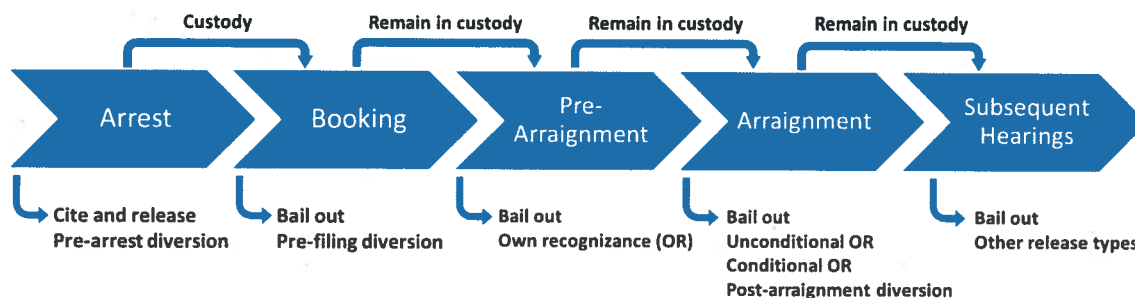
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<sup>1</sup> In December 2020, the County DA issued a Special Directive making OR the default type of pretrial release. Because this report focuses on 2018-2020, this new policy should have minimal impact on our findings. Future updates to our estimates will address the impact of the Special Directive.

<sup>2</sup> The “other” category in this figure also includes releases that occurred during the pretrial period (i.e., before adjudication) but that we were unable to classify in any of the other three categories because the booking data indicated a type of release meant to be used post-adjudication, such as “time served,” “early release,” or “percent release.” More details can be found in the Technical Appendix.

## Data Collection to Support Pretrial Reform

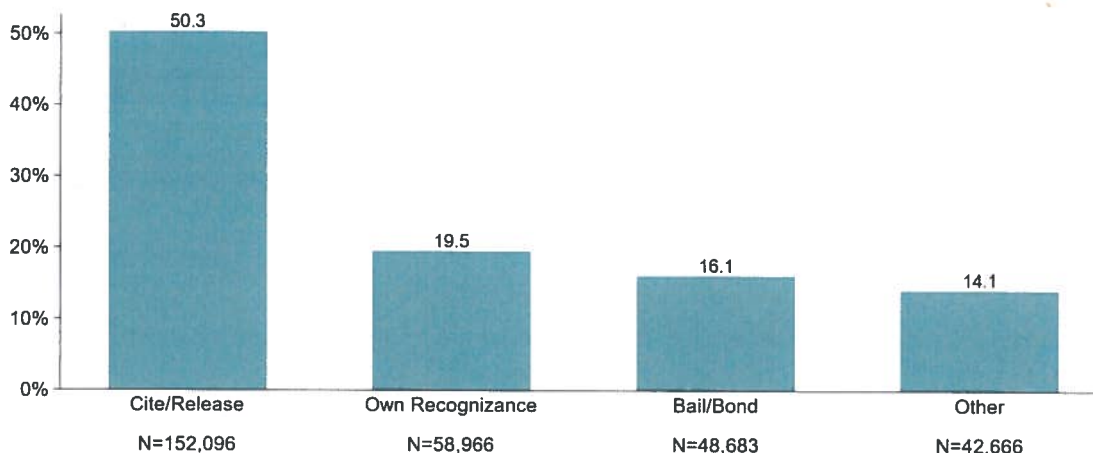
Figure IV-1 Simplified Illustration of Pretrial Process and Release Points



Over the period of 2018-2020, in 70% of all cases, the person was released during the pretrial period. Figure IV-2 shows the breakdown of the 302,411 cases released pretrial during that period, by type of release:

- One half (50%) of all pretrial releases were cite/releases;
- About one out of five (20%) released defendants were released on OR;
- Another 16% of released defendants either paid bail or posted bond; and
- Approximately 14% of defendants were released during the pretrial period under various other circumstances, as described above.

Figure IV-2 Cases Released Pretrial in 2018-2020, by Type of Pretrial Release



### Individual and Case Characteristics for Pretrial Releases

Table IV-1 shows the characteristics of individuals who were released during the pretrial period from 2018 to 2020, by type of release. We find that:

- Individuals who were cited/released or released on OR were more likely to be female (22%-23%) than those released on bail/bond (18%) or released for “other” reasons (15%);
- The four types of releases had somewhat different age distributions; for example, 26% of those released on bail/bond were young (ages 18-25), compared to only 15% for the “other” release category; in general, the “other” release type had the most dissimilar age distribution compared to the other release types;
- Cite/releases and OR releases had the lowest proportions of Non-Hispanic Black individuals (16% and 22%, respectively), compared to 24% for bail/bond and 23%

## Data Collection to Support Pretrial Reform

for “other” releases; Hispanics constituted a larger proportion of cite/releases (65%) than all other release types (55% - 61%);

- Over one-third (34%) of individuals in the “other” release type had an SMI diagnosis, a much higher proportion than in any of the other groups, especially bail/bond releases, where only 12% had an SMI diagnosis; only 1% of individuals released on bail/bond had experienced chronic homelessness, a much lower proportion than in the other release types (5% - 9%); and
- Once again, the largest differences between release types were found on case charge levels; for example, only 3% of cite/releases were for felony cases, compared to 49% of bail/bond releases and 55% of “other” releases.

Table IV-1 Characteristics of Individuals Released During the Pretrial Period, by Type of Release

	Cited and Released N=152,096	Released, Own Recognizance N=58,966	Released, Bail/Bond N=48,683	Released, Other N=42,666
<b>Sex</b>				
Male	78%	77%	82%	85%
Female	22%	23%	18%	15%
<b>Age</b>				
18-25	21%	24%	26%	15%
26-39	48%	46%	49%	51%
40-64	30%	28%	24%	33%
65 and older	1%	2%	1%	1%
<b>Race/Ethnicity</b>				
Non-Hispanic White	16%	16%	16%	13%
Non-Hispanic Black	16%	22%	24%	23%
Hispanic	65%	57%	55%	61%
Non-Hispanic Asian	1%	1%	2%	1%
<b>Vulnerable Groups</b>				
Severe Mentally Ill	23%	21%	12%	34%
Chronically Homeless	6%	5%	1%	8%
<b>Case Charge Level</b>				
Misdemeanor	96%	85%	51%	45%
Felony	3%	14%	49%	55%

## Length of Pretrial Detention by Release Type

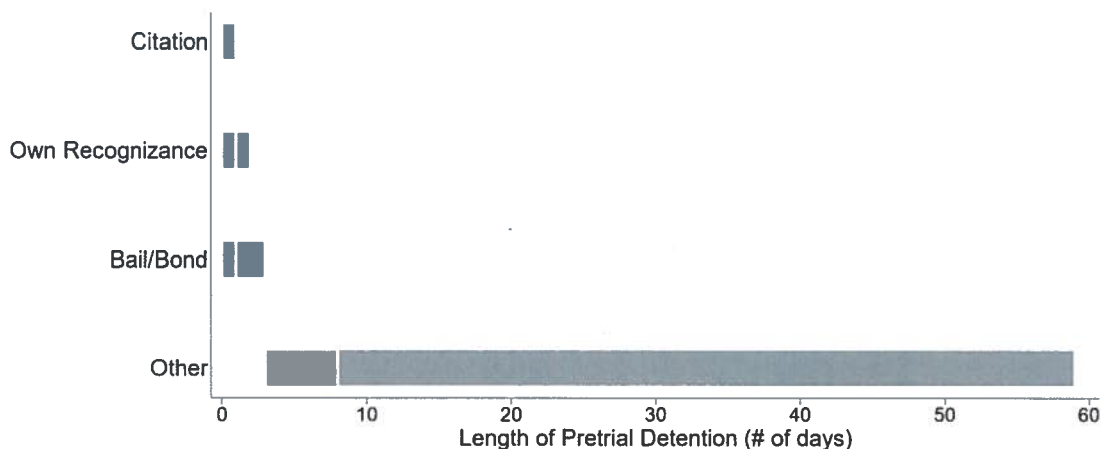
Figure IV-3 summarizes detention length (median, 25<sup>th</sup>, and 75<sup>th</sup> percentiles) for individuals released pretrial, broken down by types of release. As in the previous section, in each row, the leftmost boundary represents the 25<sup>th</sup> percentile of detention length, the white mark inside the bar represents the median detention length, and the rightmost boundary represents the 75<sup>th</sup> percentile of detention length.<sup>3</sup> As we would expect, given that most citations are given on the field, cite/releases had the shortest pretrial detention

<sup>3</sup> See previous section for explanation of what the median, 25<sup>th</sup>, and 75<sup>th</sup> percentiles represent.

## Data Collection to Support Pretrial Reform

length (median= zero days). OR releases had the second shortest pretrial detention length, with a median of one day and a 75<sup>th</sup> percentile of two days. Bail/bond releases had the same median as OR releases (one day), but a longer 75<sup>th</sup> percentile (three days). Finally, “other” releases had, by far, the longest pretrial detention period, with a median of eight days and a 75<sup>th</sup> percentile of nearly two months (59 days).

Figure IV-3 Median, 25<sup>th</sup>, and 75<sup>th</sup> Percentiles of Detention Length for Individuals Released During the Pretrial Period, by Type of Release



## Pretrial Releases Over Time by Type of Release

Figure IV-4 below shows the proportion of new monthly cases released pretrial, by type of release. For example, the lightest-shaded line shows that just over 30% of *all* new cases in January 2018 had a cite/release, while the other lines show that 12% of all new cases in the same month were released OR, 12% were released on bail/bond, and 9% were released during the pretrial period for other reasons. The figure helps us better understand the main drivers behind the steady increase in pretrial releases *before* the pandemic. Between January 2018 and December 2019, the proportion of cases with bail/bond and “other” type of releases remained largely constant. On the other hand, the proportion of cases released OR increased from 12% to 14% and the proportion of cases with cite/releases increased from 32% to 36%.

Figure IV-4 also provides insights into the impact of the pandemic on pretrial releases. The more immediate change was a dramatic increase in the proportion of new cases with OR releases, from 14% of all new cases in February 2020 to 25% in April 2020. After April, a decrease in the proportion of cases released OR coincided with an increase in cite/releases, from 39% of all new cases in April to 47% by June 2020. On the other hand, bail/bond releases experienced more modest changes, decreasing from 11% in February to 9% of all new cases in June 2020, and then increasing to 14% of all new cases by December 2020, slightly higher than pre-pandemic levels. This is a surprising result given the Statewide and local *emergency bail schedules* implemented after March 2020, which set bail at \$0 for most misdemeanor and low-level felony offenses. Anecdotally, we were informed that some law enforcement stations recorded \$0 bail releases as cite/releases or OR releases, which may help explain the post-pandemic increases in cite/releases and OR releases seen in the data. Finally, the “other” type of pretrial releases had a similar pattern

## Data Collection to Support Pretrial Reform

to bail releases, going from 11% of all new cases in February to 8% in May, and subsequently increasing to 13% by December.

Figure IV-4 Pretrial Releases as a Proportion of New Monthly Cases, by Type of Release, 2018-2020

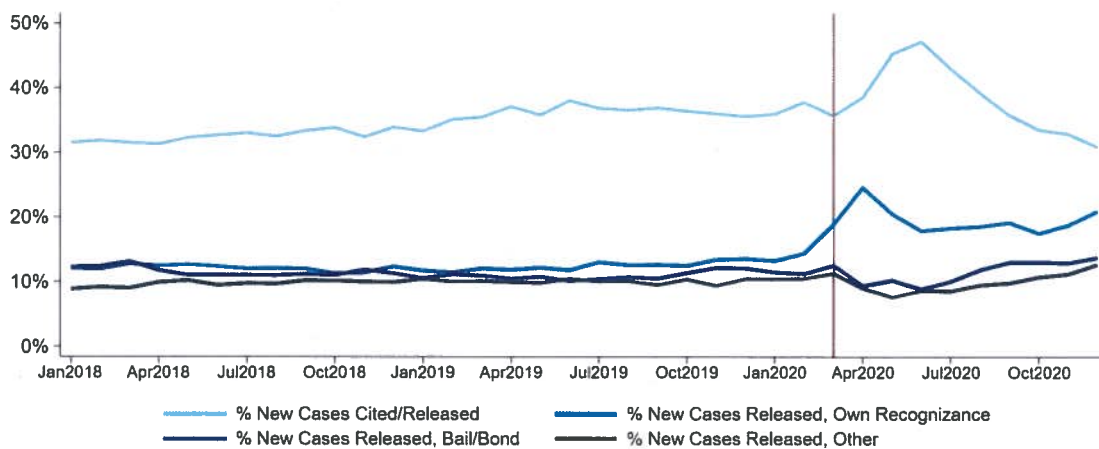
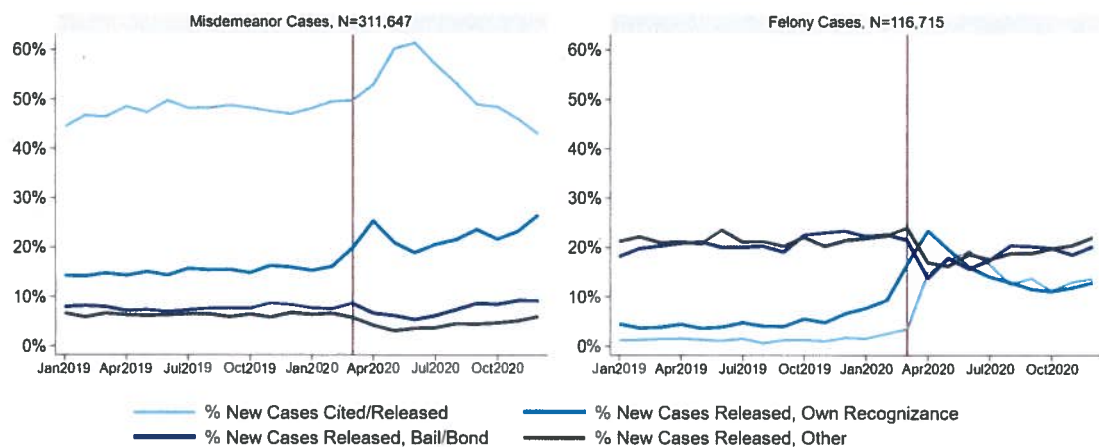


Figure IV-5 below shows the same information as the previous figure, broken down by case charge levels (for clarity, the figure only covers 2019 and 2020). The patterns in this figure are similar to those shown above, with the proportion of OR releases increasing early in the pandemic and then quickly decreasing, apparently due to increased use of cite/releases between April and June of 2020. Most notably, the increase in cite/releases and OR releases were significantly larger for felony than for misdemeanor cases. For example, the proportion of new misdemeanor cases with OR releases increased from 15.9% in February to a peak of 25.4% in April 2020; for felony cases, OR releases increased from 9.1% to 22.8% over the same period. The increase in the proportion of new felony cases given a *cite/release* was even more remarkable: for misdemeanor cases, cite/releases grew from 49% in February to 61% in June 2020, while for felony cases, they grew from 2.6% to 18.4% over the same period.

Figure IV-5 Pretrial Releases as a Proportion of Monthly New Cases, by Type of Release and Case Charge Level, 2019-2020



## Section V. Special Pretrial Release Efforts and Supportive Services for Pretrial Releases

### Recent Pretrial Release Efforts

The Board motion that directed this project identified four specific efforts implemented during the pandemic for which release metrics should be reported. We are unable to report on two of them—releases for people charged with misdemeanor offenses and who were held on bail up to \$50,000, and releases due to the Statewide and local emergency rules that set bail at \$0 for many crimes—because we were unable to access data on paid bail/bond amounts. The other two efforts required by the Board motion are described below.

#### *Pretrial Release Evaluation Program*

In 2019, the California Judicial Council awarded funds to several counties in California for pretrial projects in trial courts. The PREP, Los Angeles County's pilot, is a collaboration between the Los Angeles Superior Court (the lead agency), the Probation Department (Probation), Sheriff, DA, Public Defender, Alternate Public Defender, and the Los Angeles City Attorney. The PREP pilot relies on a two-step assessment process:

1. All individuals who are booked by any law enforcement agency in the County are assessed using the PSA, a risk assessment tool developed by the Laura and John Arnold Foundation to inform pretrial judicial decisions; the PSA applies algorithms to administrative data to produce risk scores that predict the likelihood that the individual will fail to appear in court, will commit a new crime, or will commit a new violent crime after being released.<sup>1</sup> The review of PSA scores by a judicial officer occurs before the first court appearance and before the filing of charges; judicial officers do not have any contact with the person during this process, and thus do not know their race/ethnicity. Individuals released pre-arraignment after review of their PSA scores are released OR.
2. Individuals not released prior to arraignment (either after PSA review, jail release, on OR, or bail/bond) and who are arraigned at the Clara Shortridge Foltz *Criminal Justice Center* go through a second pretrial assessment using the *Criminal Court Assessment Tool* (CCAT), an instrument developed by the Center for Court Innovation (CCI), a nonprofit focused on justice reform.<sup>2</sup> Like the PSA, the CCAT produces a re-offending risk score, but is also designed to identify criminogenic and clinical needs. After reviewing CCAT scores, judicial officers can decide to release the individual OR or on *supervised release* (SR), under the supervision of the Probation Department.

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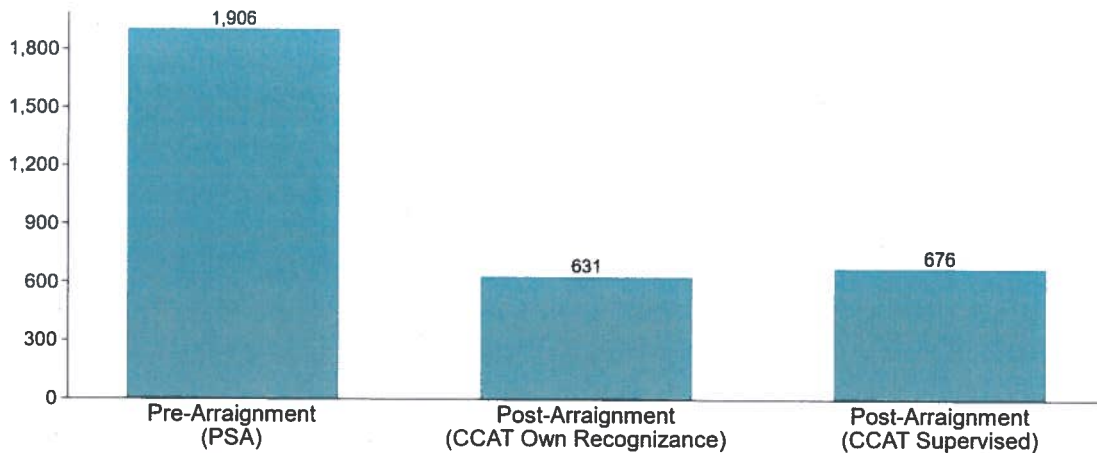
<sup>1</sup> In the County, the PSA algorithms are run by an automated system that uses data from the *Consolidated Criminal History Reporting System* (CCHRS) to estimate the risk scores.

<sup>2</sup> The use of CCAT has expanded to other Courts but, in the period reported here, it was only used at CJC.

## Data Collection to Support Pretrial Reform

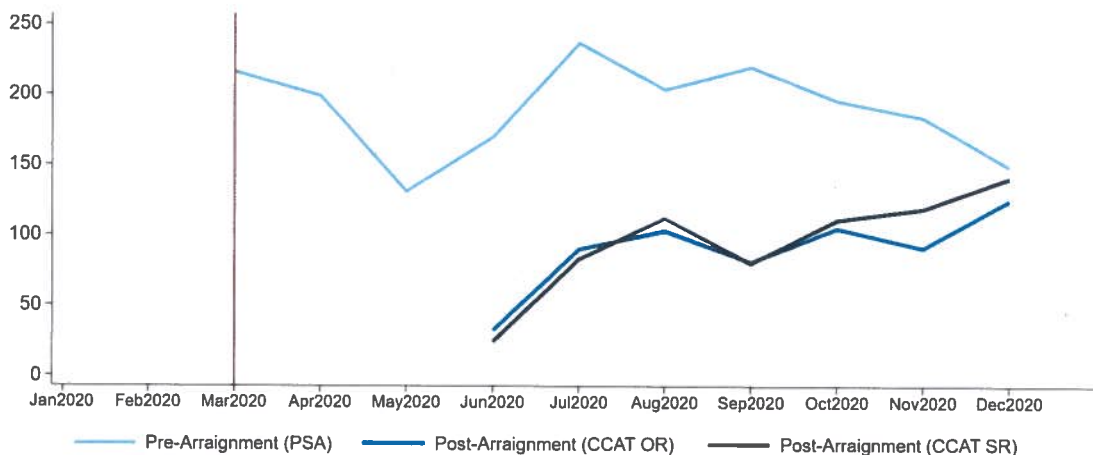
Since its implementation in March 2020 and through the end of 2020, the PREP pilot resulted in 3,213 pretrial releases, summarized in Figure V-1. Pre-arraignment releases (after PSA score reviews) accounted for almost 60% of all PREP releases, while post-arraignment (CCAT) OR and SR releases comprised about 20% of PREP releases each.

Figure V-1 Pretrial Releases Due to PREP Pilot in 2020, by Type of Release



Because the PSA and CCAT were first implemented in March and June 2020, respectively, all PREP releases occurred after the start of the pandemic. Figure V-2 shows monthly PREP releases by release type. There were about 200 PREP pre-arraignment (PSA) releases in each of the first two months following the start of the pandemic. The number of pre-arraignment releases decreased to 130 in May and then increased in June and July, when nearly 240 cases were released after PSA score review. After July, the number of pre-arraignment releases began decreasing, averaging 190 per month through the end of 2020. The first PREP post-arraignment (CCAT) releases, 56, were in June 2020. Since then, post-arraignment releases increased steadily, reaching 266 in December (OR and SR in total); these releases were evenly split between OR and SR.

Figure V-2 Monthly Pretrial Releases Due to PREP Pilot in 2020, By Type of Release





## Data Collection to Support Pretrial Reform

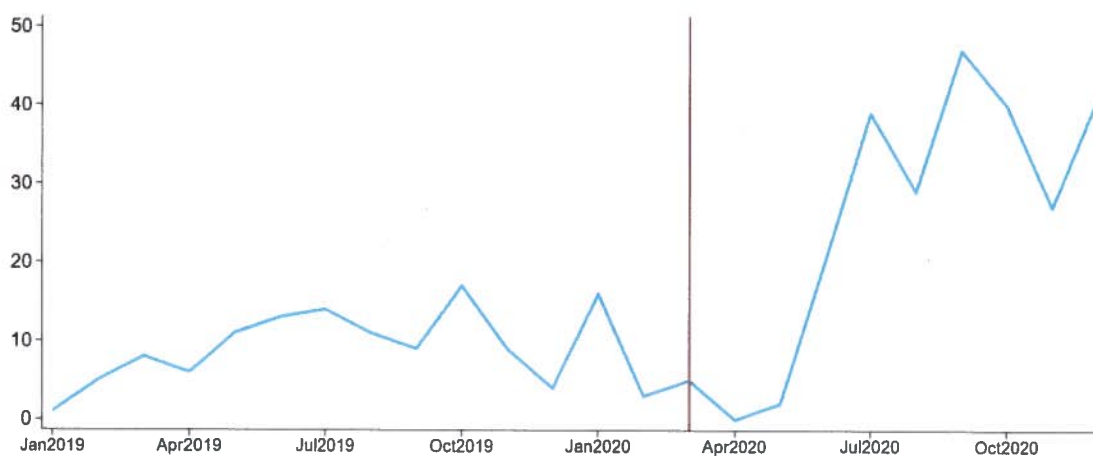
### *The Bail Project*

TBP is a national nonprofit organization that provides free bail assistance and community-based pretrial services to low-income people who are incarcerated during the pretrial process, more specifically those who judges have already deemed eligible to be released on bail but cannot afford it. TBP has paid bail for nearly 16,000 individuals around the United States.

In Los Angeles County, TBP receives case referrals from the Public Defender and Alternate Public Defender departments after individuals are arraigned and bail is set by a judge. TBP then conducts its own eligibility and needs assessments and posts bail at no cost to the individual. In addition, after they are released, TBP provides supportive services for its clients, such as reminders for court appearances, transportation assistance for court appearances, and voluntary referrals to social services and community resources. Unlike other programs reviewed in this section (ODR's diversion programs and Project 180's PREP Services), TBP is not a court-based program to which judges make direct referrals, or that advises judges regarding the appropriateness of release (e.g., PREP releases).

In 2019, TBP helped secure bail release for 108 cases in the County. The number of pretrial releases due to TBP increased to 269 cases in 2020 (nearly a 150% increase), for a total of 377 releases during those two years. Figure V-3 shows the number of monthly releases since 2019. Releases due to TBP decreased significantly at the start of the pandemic, from 16 in January to only 5 in March and none in April 2020. As TBP expanded its services throughout the County (after originally serving only Compton), the number of pretrial releases due to TBP increased in the second half of 2020, reaching 47 in September 2020, and averaging about 37 per month during the last six months of the year.

Figure V-3 Number of Monthly Pretrial Releases Due to The Bail Project, 2019-2020



### **Individual Characteristics of PREP and TBP Released Clients**

Table V-1 summarizes the characteristics of individuals released through the PREP pilot or because TBP paid their bail, comparing them to all other non-cite pretrial releases (we exclude cite/releases from the comparison because their offenses are less serious than those of individuals released through these programs).

A few key takeaways from the table:

## Data Collection to Support Pretrial Reform

- Women accounted for a higher proportion of PREP/PSA releases (20%) than for releases due to TBP or PREP/CCAT, but similar to other non-cite releases (19%);
- Those released due to PREP and TBP were younger than other non-cite releases;
- Individuals released due to TBP were more likely to be Non-Hispanic Black (37%) than PREP pre- and post-arraignment releases (19% and 29%), and non-cite releases in general (23%);
- Those released through PREP pre-arraignment were less likely to have an SMI diagnosis (18%) or to have experienced chronic homelessness (2%) than TBP or PREP post-arraignment releases (24%-27% SMI; 5%-6% chronically homeless); and
- Individuals released due to TBP had similar charge levels to other non-cite releases, while PREP releases had a much higher proportion of felony charges.

Table V-1 Characteristics of Individuals Released Pretrial Due to PREP and TBP<sup>3</sup>

Characteristic	PREP, PSA (Pre-Arraignment)	PREP, CCAT (Post-Arraignment)	The Bail Project	Other Non-Cite Pretrial Releases
<b>Number Released</b>	1,202	1,150	321	148,003
<b>Sex</b>				
Male	80%	84%	83%	81%
Female	20%	16%	17%	19%
<b>Age Category</b>				
18-25	31%	23%	31%	22%
26-39	48%	49%	47%	48%
40-64	20%	26%	20%	28%
65 and older	1%	2%	2%	1%
<b>Race/Ethnicity</b>				
Non-Hispanic White	15%	7%	7%	15%
Non-Hispanic Black	19%	29%	37%	23%
Hispanic	60%	62%	55%	58%
Non-Hispanic Asian	2%	<1%	0%	1%
Other	3%	1%	1%	2%
Unknown	1%	<1%	<1%	1%
<b>Vulnerable Groups</b>				
SMI Diagnosis	18%	27%	24%	22%
Chronically Homeless	2%	6%	5%	5%
<b>Charge Level</b>				
Misdemeanor	65%	34%	33%	63%
Felony	35%	66%	67%	37%

<sup>3</sup> The table includes only releases due to PREP and TBP that we were able to link to our pretrial sample. This restriction primarily affects PSA releases, of which 27% (704 of 1,906) were not in our sample, either because prosecutors had not yet filed charges by the time the data was received or because the cases were dismissed before arraignment. TBP and CCAT do not have that problem because both occur after arraignment in court.

## Data Collection to Support Pretrial Reform

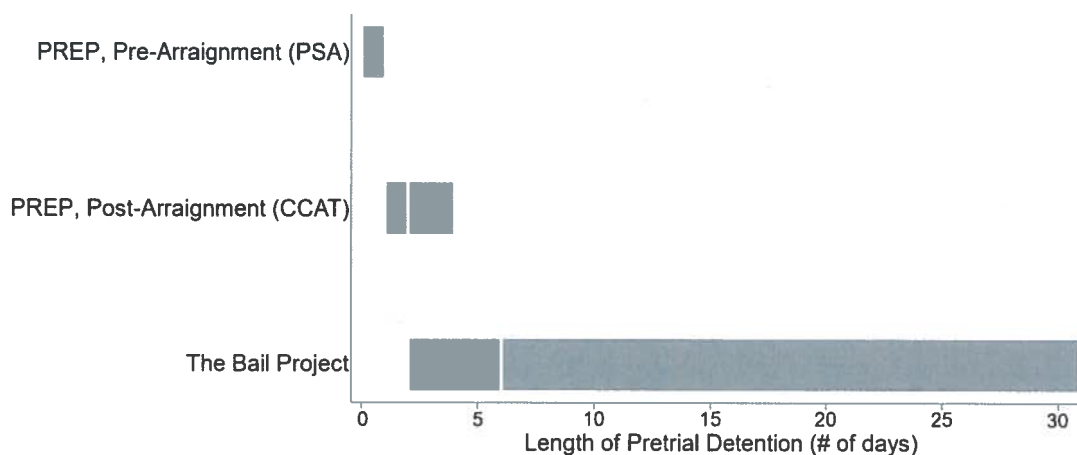
Not shown on the table, among PREP's post-arraignment (CCAT) releases, felony cases comprised of 82% of supervised releases, compared to 50% of OR releases.

### **Length of Pretrial Detention for PREP and TBP Releases in 2020**

We again emphasize that the point in the justice process (see Figure IV-1) in which an intervention is implemented partially determines how long a person is held in custody before being released pretrial. Pre-arraignment PREP releases (after review of PSA scores) are implemented within hours after the person is booked while PREP post-arraignment (through the CCAT) releases are implemented when a person is in court for arraignment. Meanwhile, bail releases due to TBP can only occur after the person is arraigned, deemed eligible for bail, and referred to TBP, usually by a public defender.<sup>4</sup> Figure V-4 summarizes detention length (median, 25<sup>th</sup>, and 75<sup>th</sup> percentiles) for individuals released through TBP and the PREP pilot.<sup>5</sup>

As in the previous two sections, in each row, the leftmost boundary represents the 25<sup>th</sup> percentile of detention length, the white mark inside the bar represents the *median* detention length, and the rightmost boundary represents the 75<sup>th</sup> percentile of detention length.<sup>6</sup> Individuals released through PREP pre-arraignment (PSA) had the shortest length of detention, with the 25<sup>th</sup> percentile equal to zero days and both the median and 75<sup>th</sup> percentile equal to one day. The next shortest detention length was for PREP post-arraignment releases, which had a 25<sup>th</sup> percentile, median, and 75<sup>th</sup> percentile equal to one, two, and four days, respectively.<sup>7</sup> Individuals released due to TBP had longer pretrial detention periods; the 25<sup>th</sup> percentile, median, and 75<sup>th</sup> percentile of detention length for TBP clients were two days, six days, and 31 days, respectively.

Figure V-4 Median, 25<sup>th</sup>, and 75<sup>th</sup> Percentiles of Detention Length for Individuals Released Through TBP or the PREP Pilot in 2020, by Release Program



<sup>4</sup> As explained above, TBP relies on referrals from Public Defender and Alternate Public Defender attorneys, who may need additional time before making these referrals.

<sup>5</sup> The graph only includes TBP and PREP releases that we were able to connect to our pretrial sample.

<sup>6</sup> See Section III for an explanation of the median and the 25<sup>th</sup> and 75<sup>th</sup> percentiles.

<sup>7</sup> Not shown in the graph, median and 25<sup>th</sup> percentile detention length were very similar to CCAT OR and SR releases (three days and two days, respectively), while the 75<sup>th</sup> percentile was slightly longer for OR releases (five days vs. four days).

## Data Collection to Support Pretrial Reform

### Programs Providing Services to Individuals Released Pretrial

The Board motion also required the reporting of connections to supportive services for individuals released pretrial. In the remainder of this section, we describe enrollments in diversion programs managed by ODR and in PREP supportive services operated by Project 180. We should note that, although ODR diversion programs are classified here as providing supportive services to individuals released pretrial, ODR staff also work in close collaboration with justice system agencies to secure the pretrial release of its clients. Therefore, ODR's programs could have been included in the previous section as pretrial release efforts, just like TBP could have been included in this section as a supportive services program.

#### *ODR, Department of State Hospitals Diversion*

Assembly Bill 1810 and Senate Bill 215 amended Penal Code Sections 1001.35 and 1001.36 to create a pathway for courts to authorize pretrial diversion. This ODR program, launched in March 2019 and funded by the DSH, supports the diversion of clients with serious mental illnesses who have the potential to be deemed incompetent to stand trial on felony charges. ODR provides supportive housing, intensive case management, and clinical services, while Probation provides pretrial supervision.

#### *ODR, Misdemeanor Incompetent to Stand Trial, Community-Based Restoration*

ODR's MIST-CBR program was launched in October 2015. This program diverts individuals facing misdemeanor charges who are found incompetent to stand trial into community-based settings to be restored to competency. The community-based settings are tailored to meet the program's clients' needs and clinical acuity; program placements range from acute inpatient to open residential settings.

#### *ODR, Felony Incompetent to Stand Trial, Community-Based Restoration*

FIST-CBR, launched in July 2018, is a collaboration between ODR and the DSHs to reduce the wait list and wait time of those waiting in jail for state hospital placement.

The program diverts individuals facing felony charges who are found incompetent to stand trial into community-based settings to be restored to competency. Its community-based settings are tailored to meet the program's clients' needs and clinical acuity, and program placements range from acute inpatient to open residential settings.

#### *ODR, Maternal Health*

This ODR program, launched in March 2018, prioritizes the diversion of pregnant women from jails to the community, providing supportive services and housing. Most women who are clients of this program reside in specialized interim housing settings that allow them to remain with their children until they can move into permanent supportive housing.

Most clients of this program agree to plead guilty before being released from jail, and thus are not released pretrial. However, ODR has enrolled some pregnant women who were released pretrial; only enrollments during the pretrial period are included here.

#### *ODR Housing*

This ODR Housing program, launched in August 2016, is a permanent supportive housing (PSH) intervention that serves individuals who are homeless, have a serious mental health disorder, and are incarcerated in County jail. The program is offered to pretrial defendants to try to resolve alleged criminal offenses early and divert defendants into housing with a

## Data Collection to Support Pretrial Reform

grant of probation. Clients in the ODR Housing program are assigned an intensive case management services provider who works with them as they transition from custody to the community.

As in the Maternal Health program, ODR Housing clients usually agree to plead guilty before being released from jail; thus, *most program enrollments occur after the pretrial period has ended*. However, ODR has enrolled individuals who were released during the pretrial period in ODR Housing. Only these pretrial enrollments are included in the data reported in this section.

### *PREP Services for PREP Post-Arrest Releases, Provided by Project 180*

As described above, some individuals released *post-arrest* through PREP (i.e., after review of their CCAT scores) are released under SR. Those released on SR and who have service needs identified by the CCAT assessment are referred to supportive services operated by Project 180.

Because enrollments in Project 180 are voluntary, not every referred individual becomes engaged in services. Those who enroll receive a comprehensive risk and needs assessment and receive support from Project 180's resource navigators to connect with community-based organizations that provide education, employment, housing, mental health, trauma, and substance abuse services.

### **Pretrial Enrollments in ODR and Project 180's Supervised Release Programs**

Figure V-5 below shows the total number of enrollments of individuals released pretrial during the 2018-2020 period in each of the six supportive services programs described above. (Only enrollments for cases in our pretrial sample are included). We should note that ODR reported about 1,900 enrollments in ODR Housing during this period, but the large majority were post-adjudication (see explanation above), so we only include here those for cases that were still in the pretrial period at the time of enrollment.

By far, MIST-CBR, the oldest of the six programs, had the most enrollments (708) during this time, with FIST-CBR (348) and Project 180's PREP Services (234) having the second and third most enrollments, respectively, followed by ODR Housing's 215 enrollments. DSH Diversion, the most recently launched of the five ODR programs, had the fifth most enrollments (136), and Maternal Health had the fewest enrollments, at 23.

In 2020 (not shown in Figure V-5), there were 720 enrollments in these six programs of individuals released during the pretrial period. The most enrollments were by Project 180's PREP Services (since PREP launched in 2020, all 234 enrollments in this program reported here were in 2020), followed by MIST-CBR (181), FIST-CBR (151), DSH Diversion (101), ODR Housing (43), and Maternal Health (6).

## Data Collection to Support Pretrial Reform

Figure V-5 Enrollments in Programs that Provide Services to Individuals Released Pretrial, 2018-2020<sup>8</sup>

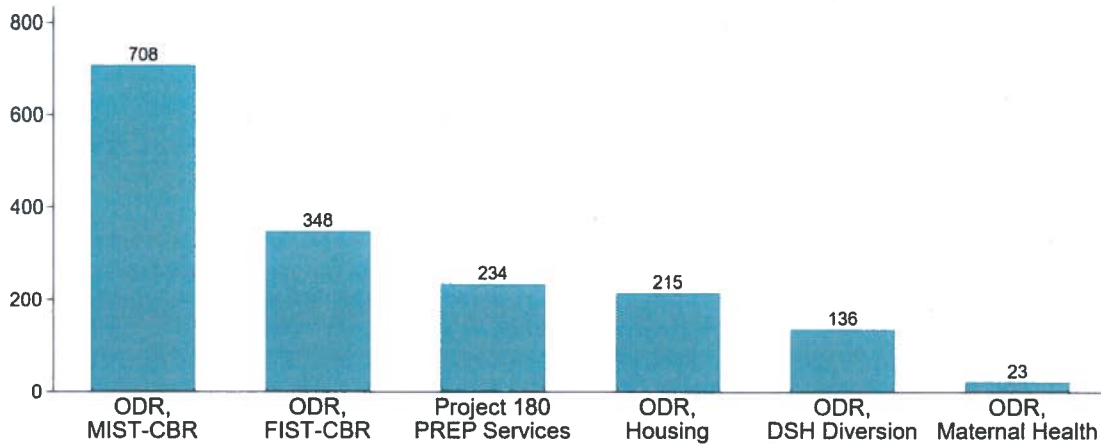
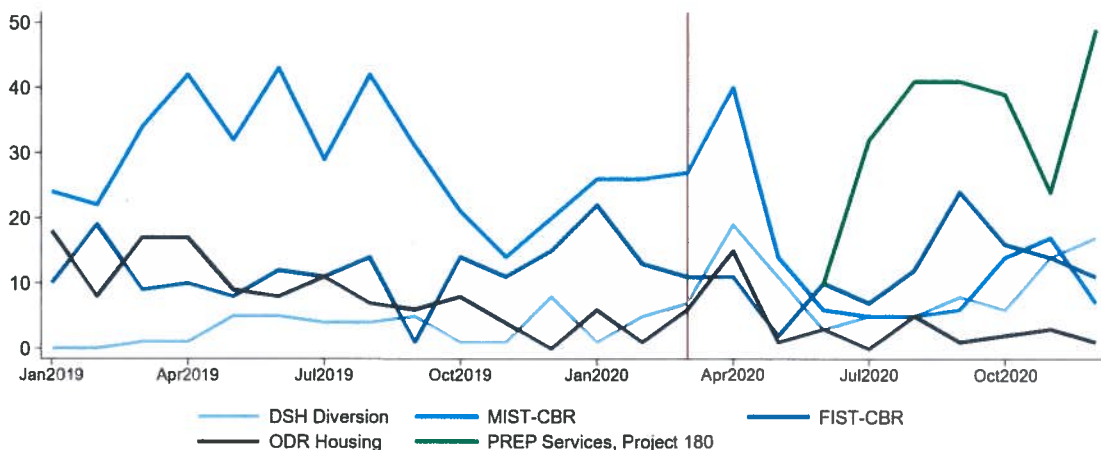


Figure V-6 shows monthly enrollments in each of these programs—for simplicity, we exclude enrollments in Maternal Health, which had three or fewer monthly enrollments over this period—in the years 2019 and 2020. Before the start of the pandemic, enrollments in this figure are roughly consistent with those shown above, as MIST-CBR and FIST-CBR had the highest number of enrollments in most months, followed by ODR Housing and DSH Diversion.

After the start of the pandemic, in March and April 2020, pretrial enrollments in MIST-CBR, DSH Diversion, and ODR Housing spiked, but they decreased quickly in May and remained low for the rest of the year. In contrast, enrollments in FIST-CBR were low at the start of the pandemic and increased in the second half of the year. Enrollments in PREP Supportive Services (green line) did not start until June 2020, after the launch of the CCAT assessment, but they grew through the rest of the year—except for November 2020—reaching 49 enrollments in December.

Figure V-6 Monthly Enrollments in Programs that Provide Services to Those Released Pretrial, 2019-2020



<sup>8</sup> The figure includes only enrollments for cases we were able to link to our pretrial sample. For ODR Housing, most enrollments were post-adjudication, but we only included enrollments during the pretrial period.

## Data Collection to Support Pretrial Reform

### ***Individual Characteristics of ODR and Project 180 Clients***

Table V-2 (next page) summarizes the characteristics of individuals released pretrial who enrolled in ODR diversion or Project 180's PREP Services programs and, for reference, of all other persons released pretrial, except for those released on citations.

A few highlights from the table:

- Individuals enrolled in ODR programs were more likely to be women than other pretrial releases; enrollees in Project 180's PREP Services had similar gender distribution as the overall pretrial released population;
- Individuals enrolled in most ODR programs had a similar age distribution as other pretrial releases; the exceptions were Maternal Health, where all enrollees were younger than 40, and ODR Housing, where only 55% were younger than 40; those enrolled in Project 180's PREP Services were younger than other pretrial releases;
- Enrollees in ODR programs and PREP Services were more likely to be Non-Hispanic Black than the rest of the population released pretrial; enrollees in all programs except for Maternal Health and PREP Services were considerably less likely to be Hispanic than other Non-Cite Pretrial Releases;
- Individuals enrolled in ODR programs were more than three times as likely to have been diagnosed with a SMI by a Department of Mental Health (DMH) provider as the overall pretrial released population (71% across all ODR programs vs 21% for all non-cite pretrial releases); this is likely an underestimate since SMI diagnosis is part of the eligibility criteria for ODR clients;<sup>9</sup> the proportion of clients of Project 180's PREP Services with an SMI diagnosis was slightly higher (24%) than the proportion in the overall released population;
- The proportion of ODR clients who have experienced chronic homelessness was twice that of others released pretrial (10% across all ODR programs vs. 5% for all non-cite pretrial releases); clients of Project 180's PREP Services had a similar proportion to others released pretrial; and
- Except for MIST-CBR, clients of ODR programs and PREP Services were much more likely to have been charged with felony offenses than other pretrial releases (46%-100% felony cases for ODR and PREP Services vs. 37% for other pretrial releases).

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<sup>9</sup> Out of the 381 ODR clients who had not been diagnosed with SMI by DMH, 93% had not received any mental health services provided by DMH during the timeframe in which DMH data is available in the InfoHub.

## Data Collection to Support Pretrial Reform

Table V-2 Individual Characteristics of Clients Enrolled in Programs that Provide Services to Individuals Released Pretrial<sup>1</sup>

Characteristic	ODR, DSH Diversion	ODR, MIST-CBR	ODR, FIST-CBR	ODR, Maternal Health	ODR, Housing	Project 180, PREP Services	Other Non-Cite Pretrial Releases
<b>Number</b>	136	708	348	23	215	234	148,793
<b>Sex</b>							
Male	67%	66%	75%	-	68%	78%	81%
Female	33%	34%	25%	100%	32%	22%	19%
<b>Age Category</b>							
18-25	20%	16%	24%	26%	16%	30%	22%
26-39	53%	44%	42%	74%	39%	46%	48%
40-64	26%	37%	31%	-	39%	21%	28%
65 and older	1%	3%	3%	-	6%	3%	1%
<b>Race/Ethnicity</b>							
Non-Hispanic White	18%	25%	20%	9%	19%	4%	15%
Non-Hispanic Black	40%	29%	32%	30%	33%	38%	23%
Hispanic	35%	42%	42%	61%	44%	56%	58%
Non-Hispanic Asian	1%	2%	3%	-	1%	<1%	1%
Other	4%	2%	3%	-	1%	<1%	2%
Unknown	2%	1%	1%	-	1%	1%	1%
<b>Vulnerable Groups</b>							
DMH SMI Diagnosis	68%	75%	64%	48%	75%	24%	21%
Chronically Homeless	11%	10%	8%	26%	9%	5%	5%
<b>Highest Charge Level<sup>2</sup></b>							
Misdemeanor	-	96%	9%	43%	54%	15%	63%
Felony	100%	4%	90%	57%	46%	85%	37%

<sup>1</sup> The table includes only ODR and PREP Services clients that we were able to link to our pretrial sample.

<sup>2</sup> Charge levels in this table are the most recent charges available for the case. Booking charges may have been different and the original charges filed by prosecutors may also have been different from these.



## Data Collection to Support Pretrial Reform

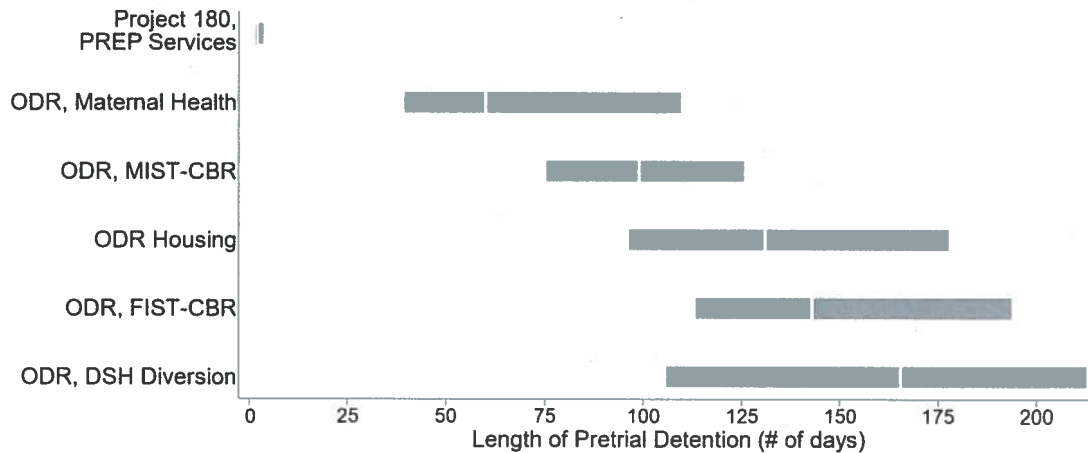
### **Length of Pretrial Detention of ODR and PREP Services Clients**

Figure V-7 below describes the length of pretrial detention for individuals released pretrial who enrolled in ODR diversion programs or Project 180's PREP Services.

Because individuals are referred to PREP supportive services after their post-arraignment (post-CCAT) release, those who enrolled in the program had a similar distribution of detention length as CCAT releases: 25<sup>th</sup> percentile of one day, median of two days, and 75<sup>th</sup> percentile of four days.

Clients of ODR programs, on the other hand, experienced considerably longer detention periods than not only PREP Services clients, but any other subpopulation released pretrial explored in this and previous sections of this report. Median detention lengths for ODR clients ranged from 60 days for clients of the Maternal Health program, to 166 days for DSH Diversion, which had a 75<sup>th</sup> percentile detention length of just about seven months (213 days).

*Figure V-7 Median, 25<sup>th</sup>, and 75<sup>th</sup> Percentiles of Detention Length for Individuals Enrolled in Supportive Service Programs After Being Released Pretrial, by Service Program*



## Section VI. Outcomes for Pretrial Releases

In this section, we focus on justice outcomes for individuals who were released during the pretrial period. The outcomes and data used to identify them are described below:

**Failure to Appear in Court (FTA):** An FTA occurs when a person who was released pretrial does not appear at a required court date. We use data from the Superior Court's TCIS to identify FTAs when a bench warrant is issued for a case while the individual is in the community (i.e., they were cited/released or released after being booked) during the pretrial period. FTA rates are measured at the case level and defined as cases with *one or more FTAs* throughout the life of the case (that is, if one case had multiple bench warrants, only the first one is counted). We exclude warrants that were recalled or quashed on the same date they were issued. Because bench warrants can be issued in circumstances when the person was unable to appear<sup>1</sup> (e.g., if he or she was hospitalized), we are unable to determine if a person willfully failed to appear in court.

**Rearrested for a New Offense:** This outcome occurs when an individual who was released pretrial is arrested again during the pretrial period, and the arrest is for a new offense, unrelated to the current or a previous criminal case.<sup>2</sup> We use data from AJIS to determine if a person was rearrested. Similar to FTAs, rearrest rates are measured at the case level and defined as cases with *one or more rearrests throughout the life of the case*. We exclude holds, arrests with charges that indicate the arrest is related to a previous offense (e.g., supervision violations or FTAs), and arrests linked to the current Court case number or to case numbers that existed before the pretrial release date. Because we use AJIS data, we do not include cites/releases other than Sheriff's, arrests outside the County, or arrests by state or federal law enforcement agencies. We should note that a rearrest for a new offense does not imply a new conviction, as a proportion of rearrests eventually have their charges dropped.

It is also important to mention that this section focuses on outcome estimates by individual and case characteristics, but it is likely that there are additional factors that influence outcomes. In particular, the pandemic may have resulted in rescheduled court dates, extended case periods, changes in judicial decision-making on bond-setting and amounts, changes in grace periods to return to court after an FTA, changes in policing behavior, etc. Data limitations prevent us from exploring these systemic factors in detail.

### Outcome Estimates by Case Characteristics

Table VI-1 shows pretrial outcomes for cases with pretrial release over the period 2018-2020, by type of pretrial release and charge levels. Of just over 300,000 pretrial

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<sup>1</sup> Bench warrants can also be "issued and held" for other reasons, such as for the judicial officer to maintain jurisdiction on the case. Such "issued and held" bench warrants typically are not propagated to the main Court data system, which is the data source for FTAs. Hence, bench warrants issued for maintenance of jurisdiction likely are not reflected in our FTA estimates.

<sup>2</sup> These re-arrests encompass a wide variety of charges, not all of them necessarily impacting public safety; future additional analyses by type of rearrest charges would be helpful in elucidating the distribution of arrests and impact on public safety.

## Data Collection to Support Pretrial Reform

releases over that period, 45% had at least one FTA in court and 34% were rearrested for a new offense committed during the pretrial period.

Pretrial outcomes varied substantially across release types and charge levels. In general, cite/releases had by far the highest FTA rates (58%), followed by OR releases (39%). Although these two release types also had the highest FTA rates among felony cases, we should note that the number of *felony* cases released on a citation or OR was relatively small (13,639 in total), and 66% of these types of releases for felony cases occurred in the 10 months following the start of the pandemic. Notably, the FTA rate in the “Other” pretrial release type was the lowest among felony cases (7%) but the highest among misdemeanor cases (58%).

Patterns of rearrest rates for new offenses were different from those for FTAs. The highest rearrest rates (54%) were among the “Other” type of pretrial releases, followed by cite/releases (36%), OR releases (26%), and bail/bond releases (21%). The same pattern was observed among both misdemeanor and felony cases; notably, two-thirds (66%) of “Other” pretrial releases among felony cases were rearrested for new offenses during the pretrial period.

Pretrial releases whose pretrial offenses were nonviolent had higher FTA and rearrest for a new offense rates than those whose pretrial offenses were violent. Among the nonviolent offense charges, individuals charged with DUI had the lowest FTA and rearrest for a new offense rates while those charged with drug offenses had the highest rates.

## Data Collection to Support Pretrial Reform

Table VI-1 Rates of Failure to Appear in Court and Rearrest for Individuals Released Pretrial, by Release Type and Charge Levels, 2018-2020

	Number Released	Failed to Appear in Court	Rearrested for a New Offense
<b>All Pretrial Releases</b>	302,411	45%	34%
<b>Pretrial Release Type</b>			
Cite/release	152,096	58%	36%
Non-cite releases	150,315	32%	32%
Own Recognizance	58,966	39%	26%
Bail/bond	48,683	24%	21%
Other release reasons	42,666	30%	54%
<b>Case Charge Level and Pretrial Release Type</b>			
Misdemeanor	239,575	50%	32%
Cite/release	145,457	58%	36%
Own Recognizance	50,207	39%	24%
Bail/bond	24,737	22%	16%
Other release reasons	19,174	57%	41%
Felony	60,632	23%	44%
Cite/release	5,171	56%	45%
Own Recognizance	8,468	42%	35%
Bail/bond	23,709	25%	26%
Other release reasons	23,284	7%	66%
<b>Current Offense Classification</b>			
Violent	45,779	28%	25%
Nonviolent	257,419	48%	36%
Property	69,668	54%	43%
Drug	88,217	63%	48%
DUI	56,741	24%	12%
Other	124,853	46%	39%

### Comparison to Estimates from Other Studies

During the preparation of this report, our working group and stakeholders expressed interest in comparing the outcomes reported above to those from other studies. We consulted with several academics and experts in pretrial justice and conducted a broad search of studies that reported estimates of pretrial outcomes in US local jurisdictions.

In general, we found significant variation in the definitions, data, and methodology used to estimate pretrial outcomes like FTAs and rearrests, something that has been noted by others (e.g., Gouldin 2018). Notably, we found few studies that included *cite/releases* in the pretrial sample, which is important because, as shown above, pretrial outcomes were less favorable for this type of release than for other types; in particular, FTA rates for cite/releases were nearly twice those for non-cite releases. The table below summarizes comparisons between the data, methodology, and findings in this study and those from a selected sample of other studies.

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(A more detailed table including comparisons to additional studies can be found at the end of this report.)

*Table VI-2 Summary of Pretrial Outcomes, Data, and Definitions in This and Other Similar Studies*

	LA County, (this study)	LA County	Santa Clara County, CA	New York City, NY	New York City, NY	Harris County, TX	New Orleans, LA
Period of estimation	2018-2020	2015-2018	2018-2020	2016-2017	2017-2018	2017-2019	2018
No. of releases	303,139	499,928	N/A	323,922	4,121	61,603	960
Inclusion/exclusion criteria	All pretrial releases (cites, OR, bail/bond and others)	Only cites, OR, and bail/ bond releases	No field cite/releases	Only field Court summons; no jail-based releases	Only cases released under pretrial supervision	Only PSA-screened releases; no cite/ releases	Only felony cases screened with PSA; no cite/releases
Notes on methodology		Shorter follow-up for rearrests than for FTAs				Rearrests determined using new PSA entry	
<i>Outcome Estimates</i>							
All FTAs	45%	45%		47%			
Non-Cite FTAs	32%		26%		16%	27%	13%
All Rearrests	34%	24%					
Non-Cite Rearrests	32%				41%	17%	14%
Source	This study	Hess & Turner, 2020 <sup>3</sup>	Fisk, 2021 <sup>4</sup>	Fishbane et al., 2020 <sup>5</sup>	Skemer et al., 2020 <sup>6</sup>	Greiner et al., 2020	Austin, 2020

Examples of data and methodological differences we found across studies include:

- Not a single study included all types of pretrial release considered in this report (cite/release, OR, bail/bond, and other pretrial releases), and only one study (Hess & Turner, 2020) included three of the four types of pretrial release considered in this report;
- Only two studies included cite/releases in their pretrial release sample;
- Several studies focused on selected populations, such as cases on supervised release, individuals released using risk-based assessments, or individuals released on the field on a Court summons; and
- Except for two studies (Hess & Turner, 2020; Fishbane et.al, 2020) all other studies relied on sample sizes significantly lower than the 300,000 pretrial releases included in this report.

In short, we found significant variation in the data and methodology used in other studies, which can explain the differences between estimates of pretrial outcomes. As shown in

<sup>3</sup> Numbers shown here were taken from Table 4.2.b.3 in Hess and Turner, 2020, which reports FTAs and rearrests for their sample of County bookings that were matched to Court case history data. These figures are different from the main estimates in their report, which are only for PSA-eligible releases.

<sup>4</sup> We do not include rearrest rates reported by SCC because they only count rearrests for cases that did *not* have an FTA. In addition, their sample includes jail-based citations but not field citations.

<sup>5</sup> Numbers shown here are from the comparison group for intervention #1 in Fishbane et al, 2020.

<sup>6</sup> Numbers shown here were taken from the last column in Table 5.1 from Skemer et.al, 2020. We did not use other columns in that table because not everyone was released pretrial.

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the “non-cite” rows in the table above, once we separate overall outcomes from those for non-cite pretrial releases, our estimates in general are not far from the range or estimates in other studies.

### Outcomes by Individual Characteristics

Table VI-3 shows pretrial outcomes for the overall pretrial release population and by individual characteristics.

A few highlights from the findings summarized in the table:

- Women had a slightly higher FTA rate than men (47% vs 44%) but were less likely to be rearrested for new offenses (28% vs 36%);
- FTA and rearrest rates did not vary significantly across most age categories, except for those age 65 and older, who had substantially lower rates, than other age groups;
- Both rates also did not vary much across racial/ethnic groups, except for Asians, who had much lower FTA and rearrest rates than the other groups; and
- FTA and rearrest rates for individuals diagnosed with SMI, as well as those who have experienced chronic homelessness were substantially higher than those for the overall pretrial released population.

*Table VI-3 Rates of Failure to Appear in Court and Rearrest for Individuals Released Pretrial, by Individual Characteristics, 2018-2020*

<b>Characteristic</b>	<b>Number Released</b>	<b>Failed to Appear in Court</b>	<b>Rearrested for a New Offense</b>
<b>Overall</b>	302,411	45%	34%
<b>Sex</b>			
Male	239,957	44%	36%
Female	62,403	47%	28%
<b>Age Category</b>			
18-25	64,594	42%	32%
26-39	145,341	46%	36%
40-64	88,290	45%	33%
65 and older	4,186	35%	19%
<b>Race/Ethnicity</b>			
Non-Hispanic White	47,359	45%	31%
Non-Hispanic Black	57,997	43%	34%
Hispanic	185,731	46%	36%
Non-Hispanic Asian	3,264	26%	17%
Other	5,798	22%	9%
<b>Vulnerable Groups</b>			
SMI Diagnosis	67,246	54%	50%
Chronically Homeless	16,653	61%	52%

## Data Collection to Support Pretrial Reform

### Pretrial Outcomes Over Time

We calculate monthly rates of pretrial outcomes as the number of occurrences of an outcome (FTA or rearrest) in a particular month, divided by the number of released cases that were open in that month (that is, the number of open cases still in the pretrial period and for which the individual had been released to the community). Thus, for example, the FTA rate for January 2019 is the number of FTAs with a warrant date in that month, divided by the number of released cases that were open at any point during that same month. We estimated the monthly rearrest rate, similarly, using the booking date to identify rearrests in a particular month.

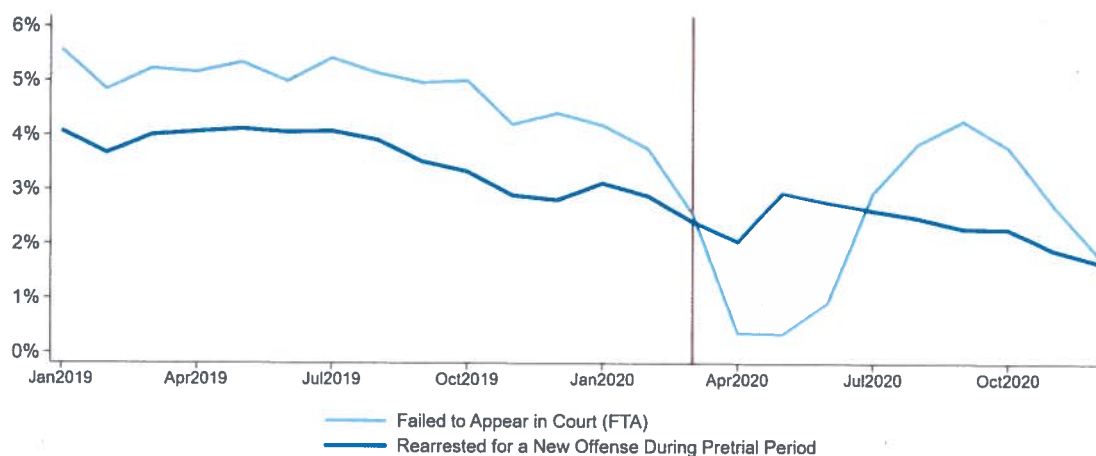
We should note that *monthly* rates are different (lower) from the *cumulative* rates shown in the tables above in this section. This is because monthly rates apply to a specific calendar month, while cumulative rates are estimated over the entire life of released cases.

### Overall Pretrial Released Population

Figure VI-1 below shows the monthly FTA and rearrest rates for the overall pretrial released population. Before the pandemic, was roughly stable during the first half of 2019, but began decreasing during the second half of that year; the onset of the pandemic brought forth a steep decline in the FTA rate, which dropped to nearly 0% in April and May 2020 (most likely due to COVID-19-related court closures and hearing postponements). The FTA rate climbed back up to close to its pre-pandemic level by September 2020, before falling again during the last quarter of the year. The pattern seen through the summer and fall of 2020 could reflect the rise and fall of the number of court hearings scheduled, as court activities resumed, and postponed hearings from April and May 2020 were rescheduled.

The monthly rearrest rate for open cases released pretrial somewhat mirrors the pattern of the FTA rate before the pandemic. However, the patterns look quite different following the onset of the pandemic. Although the rearrest rate also decreased in March and April of 2020, this decline was not as pronounced as for FTAs, and the rearrest rate mostly reverted to its pre-pandemic level in May 2020, before starting a slow decrease that continued through the end of the year.

Figure VI-1 Monthly Proportion of Open Cases with a Failure to Appear in Court or Rearrest, 2019-2020



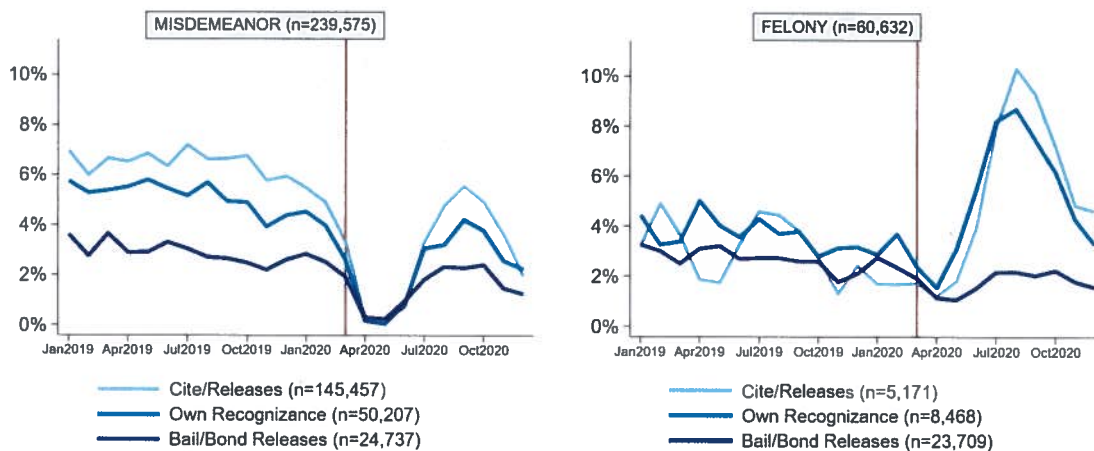
## Data Collection to Support Pretrial Reform

### **Failures to Appear Over Time, by Release Type and Charge Level**

Figure VI-2 below shows monthly FTA rates by charge level and pretrial release type. For *misdemeanor* cases (the graph on the left side), FTA rates followed similar patterns across all release types, with a cliff drop during the first few months of the pandemic before bouncing back during the Summer, only to fall again in the last quarter of 2020.<sup>7</sup> It is important to note that, even at its peak in the summer months, FTA rates for misdemeanor cases remained below pre-pandemic levels for all types of pretrial releases.

Meanwhile, for *felony* cases we see very different time trends for cite and OR releases, when compared to bail/bond releases. For felony cite and OR releases, FTA rates increased sharply after the first few months of the pandemic, reaching significantly higher levels during the summer than before the start of the pandemic, and then falling just as quickly so that by the end of 2020 they were fairly close to their pre-pandemic levels. Conversely, the monthly FTA rate for felony bail/bond releases was not appreciably affected by the pandemic and remained close to its pre-pandemic levels for most of 2020.

Figure VI-2 Monthly Proportion of Pretrial Releases with a Failure to Appear in Court, by Charge Level



**NOTE:** For clarity, figure does not include the "Other" type of pretrial releases

### **Rearrests During the Pretrial Period, by Release Type and Charge Level**

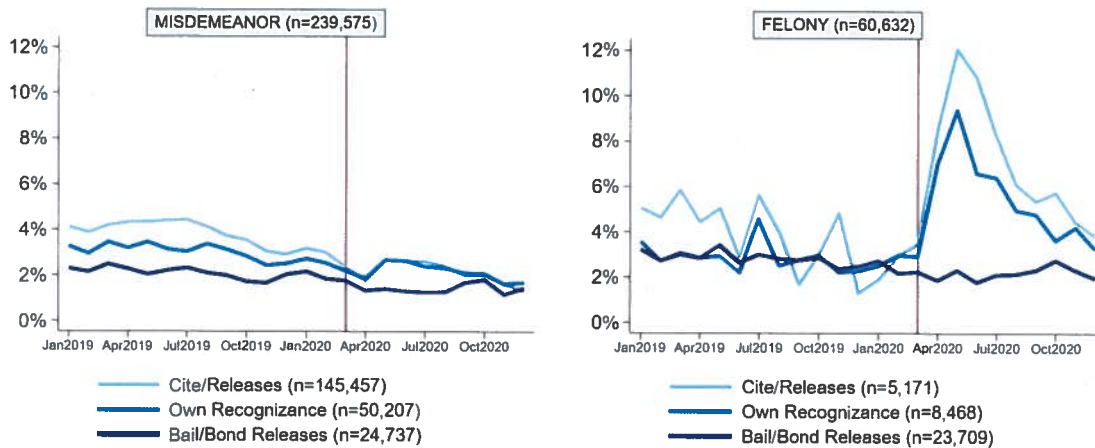
As shown in Figure VI-3 below, monthly rates of rearrests for new offenses were significantly lower for misdemeanor cases than for felony cases, regardless of the type of pretrial release.

<sup>7</sup> Court closures in March and an April 2020 order from the Los Angeles Superior Court Presiding Judge for continuances of all misdemeanor post-arraignment proceedings for out-of-custody defendants whose proceedings were to be set from 4/17 to 5/12 were likely responsible for the steep drop in FTAs in Figures VI-1 and VI-2, including the near-zero FTA rate for misdemeanors that continued into the month of May 2020.



## Data Collection to Support Pretrial Reform

Figure VI-3 Monthly Proportion of Pretrial Releases with a Rearrest for a New Offense During the Pretrial Period, by Charge Level



**NOTE:** For clarity, figure does not include the "Other" type of pretrial releases

Among *misdemeanor* cases, rearrest rates for all types of pretrial release followed a similar pattern, with slight decreases over time that continued after the start of the pandemic. Other than small bounces in May 2020 (September for bail/bond releases), there was a clear downward trend in rearrests throughout the entire period following the onset of the pandemic such that, by the end of the year, rearrest rates remained well below their pre-pandemic levels.

On the other hand, rearrest rates among *felony* cases showed significantly different patterns depending on the type of pretrial release. Rearrest rates remained mostly constant (between 2% and 3%) throughout the year for felony bail/bond releases. Conversely, rearrest rates for felony cite and OR releases increased considerably in April and May 2020, reaching levels two-to-three times higher than pre-pandemic averages. The spike in rearrest rates for cite and OR releases was short-lived, however, as both rates began a rapid decline in June 2020 and by December, they were at just about their pre-pandemic monthly averages of around 4% in both cases.

### Effect of the Pandemic on Pretrial Outcomes

We find that while FTA rates drop to almost zero at the onset of the pandemic for misdemeanor cases, the FTA rates for felonies did not follow the same pattern. This differing pattern is expected as the Court issued continuance order for misdemeanors; therefore, there were no Court appearances for misdemeanors scheduled during this period – but not for felonies.

We also find that pretrial outcome (FTA and rearrest) rates for felonies did not follow the same trend as the overall pretrial outcome rates. Pretrial outcome rate for felonies increased significantly for cite and OR releases during the first few months of the pandemic, while rates for felony cases with bail/bond and "other" releases remained stable, as seen in Figures VI-2 and VI-3. Additionally, as we saw in Section IV, the early months of the pandemic saw considerable increase in cite and OR releases for both misdemeanor and felony cases. While this does not seem to have affected pretrial outcomes for misdemeanor cases, the increase in FTA and rearrest rates for cite and OR

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released felony cases in the early months of the pandemic mirror the increase in the rate of pretrial felony cases that were released through cite and OR releases, as seen in Figure IV-4.

To understand whether there are pre- vs post-pandemic changes in characteristics of those released on cite and OR for felony cases and whether these changes are associated with differential pretrial outcomes seen for this subgroup, we need to examine the characteristics and pretrial outcomes of felony cases with cite and OR releases at different times before and during the pandemic. As seen in Figure VI-4, we split felony cite and OR releases in 2021 into four cohorts, each cohort consisting of felony cases released cite or OR in each quarter of 2021.

Figure VI-4 Pre- and post-pandemic cohorts of felony cases released on cite/releases and OR

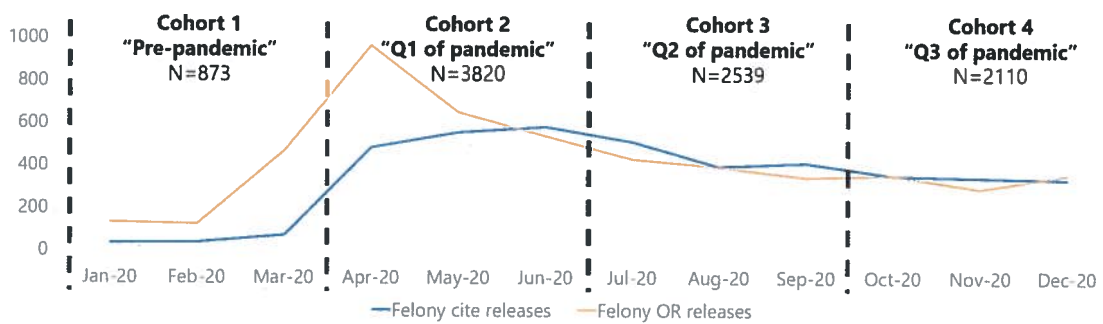


Table VI-4 shows the pretrial outcomes and characteristics of these four cohorts. FTA and rearrest rates for post-pandemic cohorts are higher than for the pre-pandemic cohort. However, while rearrest rates trend down for successive post-pandemic cohorts, approaching the pre-pandemic cohort level, FTA rates do not show the same trend for the three post-pandemic cohorts.

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Table VI-4 Pretrial Outcome Rates and Characteristics for Individuals Released Pretrial on Cite and OR on Felony Cases, by Cohort

	<b>Cohort 1 (Pre-pandemic)</b>	<b>Cohort 2 (1<sup>st</sup> quarter of pandemic)</b>	<b>Cohort 3 (2<sup>nd</sup> quarter of pandemic)</b>	<b>Cohort 4 (3<sup>rd</sup> quarter of pandemic)</b>
<b>Release Period</b>	Jan-Mar 2021	Apr-Jun 2021	Jul-Sept 2021	Oct-Dec 2021
<b>Number of Releases</b>	873	3820	2539	2110
Cite/releases	143	1640	1350	1078
OR	730	2180	1189	1032
<b>Pretrial Outcome Rates</b>				
FTA	44%	57%	58%	55%
Rearrest for new offenses	39%	50%	45%	43%
<b>Cohort Characteristics</b>				
<b>Sex</b>				
Male	77%	83%	82%	83%
Female	23%	17%	18%	17%
<b>Age Category</b>				
18-25	21%	19%	20%	20%
26-39	48%	55%	52%	52%
40-64	29%	25%	27%	27%
65 and older	2%	1%	1%	1%
<b>Race/Ethnicity</b>				
Non-Hispanic White	11%	8%	9%	9%
Non-Hispanic Black	17%	14%	15%	17%
Hispanic	55%	64%	64%	62%
Non-Hispanic Asian	1%	0%	1%	1%
Other	15%	13%	12%	12%
<b>Vulnerable Groups</b>				
SMI Diagnosis	26%	26%	25%	22%
Chronic homelessness	7%	5%	5%	4%
<b>Current Offense Classification</b>				
Violent	25%	14%	12%	13%
Nonviolent	75%	86%	88%	87%
Property	47%	59%	53%	52%
Drug	26%	26%	35%	34%
DUI	7%	3%	2%	4%
Other	31%	32%	32%	35%

Cohorts released post-pandemic skew more male and Hispanic, with a higher proportion of those in the age 26-39 category. Additionally, cohorts released post-pandemic are more likely to have been originally charged for nonviolent offenses, with a higher proportion of property crimes. As seen in Table VI-1 and VI-3 above, many of these characteristics are associated with higher FTA and rearrest rates in the overall pretrial release population; a higher proportion of individuals with these characteristics may also contribute to the

## Data Collection to Support Pretrial Reform

higher FTA and rearrest rates seen in the post-pandemic felony cite and OR release cohorts.

Even though the proportion of individuals with SMI diagnosis in this subgroup do not increase in the post-pandemic cohorts (and decrease in the last quarter of 2021), the high proportion of individuals with SMI in this subgroup of releases may also have contributed to the increase in FTA and rearrest rates post-pandemic. For instance, court closures/relocations/process changes due to COVID-19, coupled with other difficulties associated with the pandemic (such as increased reluctance to use public transportation to get to the Court), may have made navigating court appearances post-pandemic particularly challenging for individuals with SMI, leading to increases in FTA rates.

While examining changes in cohort characteristics provides some insight into the increases in FTA and rearrest rates, since there are many external factors at play during this period, it is difficult to truly extricate the factors behind the increases in pretrial outcome rates for this subgroup of pretrial releases. For instance, the severe economic impact of the pandemic and increased tensions during Black Lives Matter protests may have affected this subgroup differently to impact rearrest rates.

Despite the divergent trends seen in pretrial outcome rates for this subgroup compared to the overall pretrial release population, it is worth noting that this subgroup of cite and OR felony releases (n=13,639) is a small subset of the overall pretrial population (n=302,411).

## Outcomes by Pretrial Release Program

Table VI-5 shows the cumulative rates (over the life of a case) of pretrial outcomes by release program as well as, for comparison, the rates for different types of pretrial releases.

A few key takeaways from the table above:

- In general, FTA and rearrest rates for pretrial releases due to the PREP pilot and TBP were more favorable than for the overall pretrial released population and cite/releases.;
- When compared to non-cite pretrial releases, the PREP pilot's FTA rates were higher and rearrest rates were slightly lower;
- Although PREP's pre-arraignment (PSA) and post-arraignment (CCAT) releases had similar FTA and rearrest rates overall, these rates varied across charge levels; among *misdemeanor* cases, PSA releases had more favorable outcomes than CCAT releases, while for *felony* cases CCAT releases had more favorable outcomes than PSA releases;
- Among PREP post-arraignment (CCAT) releases, those on supervised release had lower FTA and rearrest rates than OR releases; and
- As expected, among PREP post-arraignment (CCAT) releases, FTA and rearrest rates increased for higher risk categories.
- TBP clients had the lowest FTA and rearrest rates among pretrial release programs, not only overall, but also for misdemeanor and felony cases.

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Table VI-5 Failure to Appear and Rearrest Rates for Individuals Released Pretrial, by Release Program

	Number Released	Failed to Appear in Court	Rearrested for New Offense
<b>All Pretrial Releases</b>	302,411	45%	34%
<b>Cite/Releases</b>	152,096	58%	36%
<b>Non-Cite Pretrial Releases</b>	150,315	32%	32%
<b>PREP Pre-arraignment Releases (PSA)</b>			
Overall	1,202	42%	30%
Charge Level			
Misdemeanor	779	40%	28%
Felony	422	45%	33%
<b>PREP Post-arraignment Releases (CCAT)</b>			
Overall	1,150	43%	31%
Charge Level			
Misdemeanor	387	48%	33%
Felony	760	41%	30%
Release Type			
Own Recognizance	567	49%	36%
Supervised Release	583	37%	27%
CCAT Risk Category			
Low/Moderate	468	33%	20%
Moderate/High	583	54%	40%
Invalid	99	29%	32%
<b>Releases Due to The Bail Project</b>			
Overall	321	21%	23%
Charge Level			
Misdemeanor	105	12%	18%
Felony	216	25%	26%

Although the differences in outcomes between release programs—and relative to the broader released population—may be important and useful for decision-making, we should note that there are several reasons why we should be cautious about drawing direct inferences from those numbers:

- Pretrial releases through these programs occur at different stages of the pretrial process, which may affect pretrial outcomes because it may lead to variations in how long a person is at risk of an FTA or rearrest.<sup>8</sup> For example, PREP pre-arraignment (PSA) releases, which occur shortly after booking, had the highest median time spent in the community from the date of release until the pretrial

<sup>8</sup> Additionally, the review periods to assess client suitability for enrollment in the program and release for these release programs also vary. Longer review periods allow for more in-depth assessments of suitability for the programs and needs which could improve pretrial outcomes but may also mean that clients spend longer in detention while awaiting completion of review period.

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period ended, at 183 days. PREP post-arraignment (CCAT) releases came next, with a median time in the community of 121 days, and releases due to TBP, which also occur after arraignment, had the shortest median post-release time in the community, at 113 days;<sup>9</sup>

- Because of the different stages mentioned above and due to eligibility criteria, release programs “draw” their clients from different pools of individuals. For example, although a PSA risk score is created automatically for every individual booked in the County, not everyone is eligible to be released pre-arraignment through PREP. Another example are PREP post-arraignment releases, which can only include individuals *not yet* released pretrial (e.g., pre-arraignment through PREP, posted bail/bond, or released in some other way before the review of CCAT results); and
- Finally, as explained in the previous section, although we describe TBP as a *pretrial release program*, TBP also provides *supportive services* for its clients, including court reminders, transportation to court, and referrals to services and resources based on their identified needs, which may play a role in the favorable outcomes for TBP clients shown in the table above.

## Outcomes by Supportive Services Program

Table VI-6 below shows the rates of pretrial outcomes for programs that provide supportive services to individuals released pretrial. As in the previous table, we show rates for the overall pretrial released population, for cite releases, and for non-cite releases for a basis of comparison.

Table VI-6 Failure to Appear and Rearrest Rates for Individuals Released Pretrial, by Service Program

	Number Released	Failed to Appear in Court	Rearrested for New Offense
<b>All Pretrial Releases</b>	302,411	45%	34%
<b>Cite/Releases</b>	152,096	58%	36%
<b>Non-Cite Pretrial Releases</b>	150,315	32%	32%
<b>ODR Programs</b>			
DSH Diversion	132	27%	5%
FIST-CBR	342	4%	17%
MIST-CBR	705	4%	22%
Maternal Health	23	17%	22%
Housing	204	10%	16%
<b>Project 180, PREP Services</b>			
Overall	234	27%	28%
By Charge Level			
Misdemeanor	34	32%	29%
Felony	199	26%	27%

<sup>9</sup> We estimated length of time in the community from the date of pretrial release until the end of the pretrial period, *only for cases that had closed* by the time we conducted these analyses.

## Data Collection to Support Pretrial Reform

In general, pretrial outcomes were more favorable for all supportive services programs than for the overall population released pretrial and the two major subtypes of pretrial releases (cite/releases and non-cite releases).

Other highlights from the table above include:

- ODR programs that target individuals who are incompetent to stand trial (DSH Diversion, FIST-CBR, MIST-CBR) had significantly more favorable outcomes than the broader population released pretrial who had been diagnosed with SMI. (The FTA and rearrest rates for individuals with an SMI diagnosis, shown in Table VI-3 above, were 54% and 50%, respectively, much higher than for any of these three ODR programs);
- FTA rates for ODR FIST-CBR and MIST-CBR were remarkably low at 4%; the FTA rate for DSH Diversion clients was much higher than for FIST and MIST. Conversely, the rearrest rate for new offenses for DSH Diversion was much lower, 5%, than the rearrest rate of any other program or subpopulation in our data;
- While the rearrest rate for ODR's Maternal Health program was relatively high (22%) compared to most other ODR programs, it was lower than the rearrest rate for females in the broader population released pretrial (28%, shown in Table VI-3). In addition, the FTA rate for this program (17%) was much lower than the FTA rate for females in the broader pretrial released population (47%); and
- Clients of Project 180's PREP Services had a much lower FTA rate (27%) than individuals released post-arraignment through PREP (43%) and had a lower rearrest rate (28%, compared to 31% for PREP post-arraignment releases).

## Section VII. Main Takeaways

### ***Achieving and Sustaining a Lower Incarcerated Population***

As stated in the Board motion that led to this report, the Board has demonstrated a commitment to reducing the County's reliance on incarceration. Our analyses in Sections I and II indicate that the decrease in the jail population after the onset of the pandemic was achieved through a combination of fewer arrests (bookings and citations in AJIS dropped by 26% in 2020 when compared to 2019) and more pretrial releases (the proportion of cases with pretrial release increased from 68% in 2019 to 79% in 2020).

Without a sustained decrease in the number of arrests, achieving incarceration levels below those reached in 2020—as recommended by, for example, the Men's Central Jail Closure Workgroup,<sup>1</sup> which set a goal of a maximum of 8,500 people in County jails, 30% below the level during the fall of 2020—may require an even larger increase in the number of pretrial releases than during the pandemic.

### ***Increasing Pretrial Releases and Supportive Services***

The onset of the pandemic coincided with the implementation of two pretrial release efforts: the PREP pilot kicked off in March 2020, and TBP expanded its operations from Compton to the entire County. However, even combined with enrollments in ODR's diversion programs, which also help secure the pretrial release of their clients, these efforts accounted for fewer than 3,800 pretrial releases during the 10 months following the onset of the pandemic. During those 10 months, there were more than 16,000 new cases in which the person was detained during the pretrial period, 6,550 of them misdemeanor cases, which suggests that an expansion of current efforts may be needed to further increase pretrial releases.

On the other hand, a Special Directive by the DA was issued in December 2020, making OR the presumptive type of pretrial release for cases under the DA's jurisdiction. This directive was issued too late for its impact to be reflected in the analyses done for this report, but future updates to these analyses should make clearer whether the directive has reduced the need for additional pretrial release efforts. Regardless, because the number of pretrial OR releases will increase under this directive, it is likely that additional supportive services will be needed.

There has been significant discussion recently around the use of algorithmic risk assessments to make pretrial decisions. In November 2020, California voters rejected a 2018 law that abolished cash bail, and would have replaced it with a risk assessment system that could have been modeled after PREP. Our analyses find benefits and caveats to the different types of release efforts, making it difficult to identify a single approach that should be favored moving forward. The implementation of the PREP pilot led to a significant number of releases during the pandemic, most of which occurred quickly,

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<sup>1</sup> *Men's Central Jail Closure Plan: Achieving a Care First Vision*. County Men's Central Jail Closure Workgroup Final Report. March 30, 2021.



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resulting in relatively short detention periods for individuals released through PREP, both pre- and post-arraignment.

On the other hand, although they experienced longer detention periods, individuals released due to TBP and ODR's efforts were more likely to come from disadvantaged populations (e.g., SMI or chronically homeless) and to be Non-Hispanic Black, thus contributing to the reduction of disparities in pretrial detention. The social equity benefits of TBP and ODR's activities would be greatly heightened if those who play a role in the decision-making process found additional ways to streamline processes and reduce the time it takes for their clients to be released from custody, as current detention length medians for TBP and ODR clients are too long (6 days for TBP and 115 days for ODR).

### ***Public Safety Impact of Pretrial Release Expansion***

An important concern in pretrial reform is maintaining public safety. In our analyses reported in Section IV, we found that the proportion of cases in which individuals were released pretrial had been increasing before the pandemic. In Section VI, we saw that FTA rates were stable and rearrest rates were decreasing during the same period, suggesting that the increase in pretrial releases may not have had a significant negative impact on public safety.

The remarkable increase in pretrial releases after the start of the pandemic was associated with similarly large increases in FTA and rearrest rates among certain individuals who had been charged with felony offenses (more specifically, those released on citations or on OR). However, these spikes in FTA and rearrest rates appear to have been short-lived, and by the end of 2020 both rates were mostly back to their pre-pandemic averages, even though pretrial releases remained high. We cannot be certain, however, that the increase in pretrial releases had no negative impact on public safety, as other co-occurring factors (e.g., changes in law enforcement or court practices) could explain these findings. Additional analyses are needed to confirm and better understand if and how pretrial release expansion can be safely implemented.

Nevertheless, our findings in Section VI—lower FTA and rearrest rates among clients of TBP, ODR, and Project 180's PREP Services when compared to the overall population released pretrial—suggest that the provision of supportive services could be valuable in helping certain populations navigate court processes and in addressing their criminogenic and clinical needs.

### ***Data Gaps***

Although the data used to prepare this report allows for a robust implementation of data-driven decision-making, there are certain gaps that we hope to address as we continue providing updates to these metrics.

- We were unable to identify individuals released due to other measures implemented early in the pandemic, including the Statewide emergency bail schedule and expanded releases for individuals with bail less than \$50,000. We will continue trying to secure access to bail amount data from the Sheriff's Department;

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- Besides TBP, PREP, and ODR, there are other diversion and alternatives to pretrial incarceration efforts in the County. We will continue trying to secure access to data from other programs to include in future updates;
- We only include cases that have been filed in Court because we do not have prosecutorial data. Therefore, individuals with cases for which prosecutors declined to file charges are not included in our analyses, even if they spent time in pretrial detention. Having access to data from the District Attorney and City Attorneys would allow us to include those arrests in future updates
- Criminal cases in this report only include cite/releases given by the Sheriff's Department. It is not clear how many cases are excluded related to cite/releases given by other police departments in the County; and
- Although our approach to identify FTAs is widely used by others in the Los Angeles County and elsewhere, it appears that using data from the Countywide Warrant System (CWS) might allow us to eliminate certain non-FTA warrants that we cannot identify using data from the TCIS. We will explore whether it is possible for us to access CWS data for future updates to this report.

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## Glossary and Acronyms

**Automated Justice Information System (AJIS):** The Sheriff's jail information management system, which captures, among other information, data on bookings into County jail.

**The Bail Project (TBP):** A national nonprofit organization that provides free bail assistance and community-based pretrial services to low-income people who are incarcerated during the pretrial process, more specifically those who judges have already deemed eligible to be released on bail but cannot afford it.

**Booking:** The process whereby a person is taken into custody and "booked" or "processed." During the booking process, an officer typically takes the individual's personal information, photo, fingerprints, records information about the alleged crime, performs a criminal background check, and places the suspect in formal detention (for example, in a holding cell).

**Consolidated Criminal History Reporting System (CCHRS):** A data repository managed by the Information Systems Advisory Board (ISAB) that gathers criminal history information from various source systems for the use of local judges, prosecutors, and law enforcement agencies in the County. TCIS and AJIS data in the InfoHub is extracted from CCHRS.

**Chief Executive Office (CEO):** The County department responsible for managing the strategic direction and day-to-day operations of County government.

**Charges Filed:** After a person is cited/released or booked into custody, prosecutors decide whether to file charges, which effectively creates the criminal case against the defendant.

**Chronically Homeless:** Per the U.S. Department of Housing and Urban Development (HUD), a homeless individual with a disability who lives either in a place not meant for human habitation, a safe haven, or in an emergency shelter, or in an institutional care facility if the individual has been living in the facility for fewer than 90 days and had been living in a place not meant for human habitation, a safe haven, or in an emergency shelter immediately before entering the institutional care facility. The individual also must have been living as described above continuously for at least 12 months, or on at least four separate occasions in the last 3 years, where the combined occasions total a length of time of at least 12 months. Each period separating the occasions must include at least 7 nights of living in a situation other than a place not meant for human habitation, in an emergency shelter, or in a safe haven.

**Cite/Release:** A situation in which an officer releases the arrested individual after he or she signs a citation promising to appear in court.

**Comprehensive Health Accompaniment and Management Platform (CHAMP):** The case management information system used by the ODR to assist client engagement, and coordinate service delivery.

**Information Hub (InfoHub):** A data warehouse managed by OCIO. Two of its key components are the Countywide Master Data Management system (CWMDM) and the service data store. CWMDM creates unique enterprise identifiers (EIDs) for clients of participating departments. The service data store receives data on services provided to those clients (e.g., mental health treatment, homeless services, etc.) and their justice system involvement (e.g., bookings, community supervision, sentencing), which can be linked across systems using EIDs.

**Criminal Court Assessment Tool (CCAT):** A tool developed by the Center for Court Innovation (CCI), a nonprofit focused on justice reform. The CCAT produces a re-offending risk score and is also designed to identify criminogenic and clinical needs. Individuals released through

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the CCAT can be released on their OR or on supervised release, under the supervision of the Probation Department.

**Criminogenic Needs:** Risk factors associated with criminal conduct. That is, problems or issues of an individual that relate to their likelihood of committing another crime.

**Department of State Hospitals (DSH) Diversion:** Diversion program managed by ODR and funded by the Department of State Hospitals. It supports the diversion of clients with serious mental illnesses who have the potential to be deemed incompetent to stand trial on felony charges. ODR provides supportive housing, intensive case management, and clinical services to participants, while the Probation Department provides pretrial supervision.

**Detention Throughout the Pretrial Period:** Cases in which the person remains in custody from the initial booking date until the case concludes with a conviction, acquittal, or dismissal.

**Department of Mental Health (DMH):** The largest County-operated mental health department in the United States. DMH provides mental health services directly and through contracted providers.

**Failure to Appear in Court (FTA):** Cases in which a person who was released pretrial (including cite/releases) fails to appear at a required court date.

**Felony Incompetent to Stand Trial, Community-Based Restoration (FIST-CBR):** ODR program that diverts individuals facing felony charges who are found incompetent to stand trial into community-based settings to be restored to competency. Its community-based settings are tailored to meet the program's clients' needs and clinical acuity, and program placements range from acute inpatient to open residential settings.

**Felony Offense:** In California, a crime that carries a maximum sentence of more than a year in custody—either County jail or State prison. Alternatively, a judge may sentence a felony offender to formal probation. Felony offenses are more serious than misdemeanor offenses.

**Homeless Management Information System (HMIS):** A system managed by the Los Angeles Homeless Services Authority (LAHSA) to collect client-level data on the provision of housing and services funded by the U.S. HUD to individuals and families who have experienced homelessness.

**Integrated Behavioral Health Information System (IBHIS):** The information system that captures data on mental health services provided directly by DMH and its contracted providers.

**Information Systems Advisory Board (ISAB):** A multi-agency, multi-jurisdictional policy sub-committee of the Countywide Criminal Justice Coordinating Committee, established in 1982 to oversee the coordination, planning, and development of major justice information systems. ISAB manages CCHRS, the data repository from where booking and Court data is extracted and submitted to the InfoHub.

**Maternal Health:** ODR program that prioritizes the diversion of pregnant women from jails to the community and provides supportive services and housing. Most women who are clients of this program reside in specialized interim housing settings that allow them to remain with their children until they can move into permanent supportive housing.

**Misdemeanor Incompetent to Stand Trial, Community-Based Restoration (MIST-CBR):** ODR program that diverts individuals facing misdemeanor charges who are found incompetent to stand trial into community-based settings to be restored to competency. The community-based settings are tailored to meet the program's clients' needs and clinical acuity, and program placements range from acute inpatient to open residential settings.

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**Misdemeanor Offense:** In California, a crime for which the maximum sentence is no more than one year in County jail. A misdemeanor is more serious than an infraction but less serious than a felony.

**Office of the Chief Information Officer (OCIO):** A subdivision of CEO that provides strategic leadership, and partners with County departments in areas related to technology, information security, and data analytics.

**Office of Diversion and Reentry (ODR):** Created by the Board in September 2015, this office's mission is to develop and implement Countywide criminal justice diversion for persons with mental and/or substance use disorders, to provide reentry support services based on individuals' needs, and to reduce youth involvement in the justice system.

**ODR Housing:** ODR program that provides permanent supportive housing (PSH) to individuals who are homeless, have a serious mental health disorder, and are incarcerated in County jail. The program is offered to pretrial defendants to try to resolve alleged criminal offenses early and divert defendants into housing with a grant of probation. ODR Housing clients are assigned an intensive case management services provider, who works with them as they transition from custody to the community. Because program participants agree to plead guilty before being released from jail, most ODR Housing enrollments occur after the pretrial period has ended. However, ODR has enrolled individuals who were released during the pretrial period in ODR Housing.

**Pretrial Detention Length:** The length of time an individual spent in custody during the pretrial period.

**Pretrial End Date:** The date when a criminal case ends due to a conviction, acquittal, or dismissal of charges.

**Pretrial Length:** The length of time between the start and the end of the pretrial period.

**Pretrial Period:** For the purposes of this report, the *pretrial period* of a criminal justice case begins on the date of the first booking or citation associated to the case, and it ends when *any* of the following occurs: the charges are dismissed, the defendant is acquitted, or the defendant is found guilty and convicted.

**Pretrial Release:** When a defendant is released from custody on or after the date they were initially arrested and before the case concludes with a conviction, acquittal, or dismissal.

**Pretrial Risk Evaluation Program (PREP):** A pilot program in the County whose objectives are to increase the number of inmates who can be safely released before trial and use the least restrictive monitoring practices possible to ensure their return for court appearances. It is a collaboration between the Los Angeles Superior Court, Probation, Sheriff, DA, Public Defender, Alternate Public Defender, and the Los Angeles City Attorney, and relies on a two-step assessment process that involves the PSA and CCAT.

**Pretrial Start Date:** For the purposes of this report, the date of the first booking or citation associated with a criminal case.

**Project 180:** An organization that provides diversion and reentry programs, as well as supportive services, to individuals who are involved in the criminal justice system. Voluntary referrals to Project 180 are made for individuals who have service needs and are released *post-arraignment* through PREP on supervised release, after review of their CCAT assessment.

**Public Safety Assessment (PSA):** A risk assessment tool developed by the Laura and John Arnold Foundation to inform pretrial judicial decisions. The PSA applies algorithms to administrative data to produce risk scores that predict the likelihood that the individual will fail to appear in court or commit a new crime after being released. All individuals who are booked by a

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County law enforcement agency are assessed shortly after booking. Individuals released through the PSA are released on their OR with minimal monitoring.

**Rearrest:** When a person who has been involved in the justice system and is in the community (that is, they were cited/released, released pretrial, released post-adjudication, or are under supervision) is arrested again.

**Release from Jail Post-Adjudication:** When an individual is released from jail after having been convicted for one or more charges. These releases include individuals who served their custodial sentence, early releases, and parole releases.

**Severe Mental Illness (SMI):** Having been diagnosed with any of the following mental disorders: schizophrenia, schizoaffective disorder, psychotic disorders, major depressive disorders, bipolar disorders, and borderline personality disorder.

**Supervised Release Program:** A supportive services program managed by Project 180 that provides supportive services to individuals released under supervised release through the PREP pilot's CCAT assessment.

**Trial Court Information System (TCIS):** The system used by the Los Angeles Superior Court (and all other Superior Courts in California) to manage and process the County's criminal cases from inception to disposition.

## Appendix A: Technical Details

### The InfoHub

The InfoHub is a platform managed by OCIO, designed to link person identities between County systems, share information with and between those systems, and support the coordination of care and services, as well as data-driven decision-making.

The InfoHub consists of three core components:

- **Countywide Master Data Management (CWMDM):** Resolves and links identities across participating (source) systems;
- **Data Integration Services:** Enables the secure exchange of data; and
- **Data Hosting:** Stores data on service utilization and other types of encounters (assessments, arrests, supervision episodes, etc.).

The CWMDM and Data Hosting components receive data from participating departments on a regular frequency (weekly in some cases, monthly in others). Thus, the InfoHub keeps a historical record of County clients and the services they received, which can be used for performance measurement, evaluation, and research.

### Data Sharing and Security

County Counsel, with support from an external law firm, conducted a comprehensive legal analysis of Federal, State, and local regulations around data for adults in the justice, health, and social service sectors. Following the completion of this legal analysis, the CEO executed data sharing agreements (DSAs) with every agency that now contributes data to the InfoHub. Each of these DSAs—which were reviewed by County Counsel to ensure consistency with the findings from their legal analysis—outlines allowable uses for the data, identifies authorized users, and describes measures to be taken by CEO to protect confidentiality and privacy.

### Data Used for this Report

To create this report, we used data from the agencies and source systems listed in the table below. Specific fields within each source system, and how they were used, are described in the rest of this Technical Appendix.

*Table A-0-1. Source Agency, System, and Type of Information for Data Used in This Report*

Agency	Systems	Type of Information
Sheriff	AJIS (through CCHRS)	<ul style="list-style-type: none"> <li>• Booking number</li> <li>• Court case number</li> <li>• Defendant number</li> <li>• Booking date</li> <li>• Release date</li> <li>• Release reason</li> <li>• Charge level</li> </ul>



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Agency	Systems	Type of Information
Los Angeles Superior Court	TCIS (through CCHRS)	<ul style="list-style-type: none"> <li>• Case number</li> <li>• Case filing date</li> <li>• Booking number</li> <li>• Charge level (felony, misdemeanor)</li> <li>• Disposition</li> <li>• Disposition date</li> <li>• Warrant type</li> <li>• Warrant issue date</li> <li>• Warrant recall date</li> </ul>
Probation	ORMS PSCR	<ul style="list-style-type: none"> <li>• PREP PSA releases               <ul style="list-style-type: none"> <li>○ Booking number</li> <li>○ Release date</li> </ul> </li> <li>• PREP CCAT assessments               <ul style="list-style-type: none"> <li>○ Court case number</li> <li>○ Risk category</li> <li>○ Release decision</li> <li>○ Release date</li> <li>○ Needs (education, employment, housing, substance abuse, mental health, trauma)</li> </ul> </li> </ul>
Project 180	N/A	<ul style="list-style-type: none"> <li>• For PREP CCAT supervised releases who engage in the Supervised Release Program:               <ul style="list-style-type: none"> <li>○ Court case number</li> <li>○ Intake completion date</li> <li>○ Needs (education, employment, housing, alcohol treatment, drug treatment, mental health, trauma)</li> </ul> </li> </ul>
The Bail Project	N/A	<ul style="list-style-type: none"> <li>• Court case number</li> <li>• Date bail was paid</li> </ul>
Office of Diversion and Reentry	CHAMP	<ul style="list-style-type: none"> <li>• Booking number</li> <li>• Program name</li> <li>• Enrollment date</li> </ul>
DMH	IBHIS IS	<ul style="list-style-type: none"> <li>• Diagnosis codes</li> </ul>
LAHSA	HMIS	<ul style="list-style-type: none"> <li>• Chronically homeless flag</li> </ul>
Various others	Others	<ul style="list-style-type: none"> <li>• Sex</li> <li>• Race/ethnicity</li> <li>• Birth date</li> </ul>

### Unit of Analysis

*The unit of analysis throughout this report is a criminal justice case.* Therefore, if an individual had multiple cases over the 2018-2020 period, that person was counted as many times as they had cases. On the other hand, if there were multiple pretrial releases or failures to appear in court associated to a single case, only the first of them was counted.

One of the reasons why we have used the Court case number as the unit of analysis is because an individual can have multiple cases that begin and end in different times. To conduct time-based analysis, such as trends over time, we need to clearly establish when events begin and end, and that is hard to do if we choose to do the analyses at the person level. Moreover, certain subpopulations are more heavily impacted by the justice system and conducting analysis at the case level would better reflect this disproportionate impact, as these individuals are more likely to have multiple cases. In addition, we did not want to arbitrarily pick and choose from multiple outcomes when an individual had multiple cases. For certain metrics, such as FTA rates where an FTA can touch multiple cases, this may result in a higher rate.

## Data Collection to Support Pretrial Reform

That said, using case as the unit of analysis comes with certain cautions. Most importantly, if there are multiple court appearances within a case and the person fails to appear in only one of them, we will consider that a 100% FTA rate for the case, whereas analyses that use the court appearance as the unit of analysis will find a lower FTA rate. Similarly, if individuals who have multiple cases are also more likely to fail to appear in court or be rearrested, FTA and rearrest rates will be higher than in analyses done at the individual level, as one FTA or rearrest for those individuals will be counted for each of their cases.

The 430,667 cases analyzed in this report involved 237,308 unique individuals, for an average of 1.8 cases per person (over the 2018-2020 period). The distribution of number of cases per person is summarized below:

Metric	Value
1 percentile	1 case
10 percentile	1 case
25 percentile	1 case
50 percentile (median)	1 case
75 percentile	2 cases
90 percentile	4 cases
99 percentile	10 cases

78,004 unique individuals (one-third of all individuals in our sample) had more than one case.

### **Pretrial Concepts and Metrics**

#### *Pretrial Population*

For the purposes of this report, the pretrial population includes every individual with a criminal case tried in the County. The sample used in the report includes all cases that met the following criteria:

1. The pretrial period for the case started between January 2018 and December 2020;
2. The first booking or citation associated to the case included at least one charge for a new offense. For example, we exclude bookings where defendants were being held to be transferred to other jurisdictions, on probation or parole holds, for flash incarcerations, or for post-sentence arrest warrants; and
3. We were able to connect the data for the first booking or citation to the corresponding data for the court case.<sup>1</sup>

#### *Pretrial Period*

The following key terms are important to understand the estimation of pretrial period:

- **Pretrial Start Date:** The date of the first booking found in the AJIS system tied to an Enterprise ID number and court case number combination;
- **Pretrial End Date:** The first disposition date in TCIS for the case in which the disposition codes indicate either a conviction, acquittal, or dismissal; and
- **Pretrial Length:** The number of days between the pretrial start date and pretrial end date.

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<sup>1</sup> We need to connect booking and court data because: (1) we need to know the date of the first booking or citation for the case to determine the start of the pretrial period; and (2) we need data from the Superior Court to determine the end of the pretrial period (date charges were dismissed, or the defendant was acquitted or convicted). In addition, because we do not have data from the DA or city prosecutors, we can only know if charges were filed for a case if we find the corresponding Court case.

## Data Collection to Support Pretrial Reform

### *Pretrial Release Status*

We categorized pretrial cases into four groups, according to whether they were detained or released during the pretrial period:

- Defendants released pretrial, which can happen on the field (cites/releases) or after booking;
- Defendants were detained in custody throughout the duration of the pretrial period, and the pretrial period has ended;
- Defendants who were detained in custody and the pretrial period has not ended; and
- Defendants who were transferred to another jurisdiction during the pretrial period.<sup>2</sup>

### *Detention Throughout the Pretrial Period*

In general, this includes cases in which the person was continuously in custody from the start and through the end of the pretrial period (that is, they did not have a release in AJIS before the end of the pretrial period). We also included in this category cases in which the pretrial period had not ended by the time we conducted the analyses and the person had been in custody since the start of the pretrial period.

### *Pretrial Releases*

For every case in our data, we determine that the person was released during the pretrial period if they had a release in AJIS with a release date on or after the start of the pretrial period, and before the end of the pretrial period for the case. We include releases for any reason during the pretrial period for the case, except for transfers to other jurisdictions. When the release reason was inconsistent with a pretrial release, the case was categorized accordingly (see *pretrial release type*).

### *Pretrial Release Type*

We used release reason codes in AJIS to classify pretrial releases into four different types:

- **Cite/release:** AJIS release code CITE.
- **Release on own recognizance (OR):** AJIS release codes OR, OREM.
- **Bail and Bond Releases:** AJIS release codes BAIL, BOND.
- **Other:** All other release codes used for a release during the pretrial period (except for transfers to other jurisdictions, which we do not consider to be pretrial releases).

### *Pretrial Detention Length*

Detention length was calculated as follows:

- For those who were detained throughout the pretrial period, the number of days between the pretrial start date and the pretrial end date;
- For those who remained detained at the end of the observation period, and have an ongoing case, the number of days between the pretrial start date and the end of the observation period; and
- For those who were released pretrial or transferred to another agency's custody, the number of days between the pretrial start date and the release date.

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<sup>2</sup> In some cases, the release reason was coded as a transfer to another jurisdiction, but the booking was associated with a person released to an ODR diversion program. We categorized those cases as pretrial releases.

## Data Collection to Support Pretrial Reform

### *Booking for a New Offense*

To determine that a booking was for a new offense, we discard charge codes that indicate a case was already adjudicated (for example, flash incarcerations, probation/parole holds, post-sentence warrants, etc.), failures to appear in court, and those that have an associated court case in which the filing date predates the first booking date for the case.

### *Failure to Appear in Court*

For each case, we determine if there was an FTA using data from TCIS. More specifically, we count an FTA if a bench warrant was issued for the case during its pretrial period. We exclude warrants that were recalled (“quashed”) on the same date they were issued. Because bench warrants can be issued in circumstances when the person was unable to appear (for example, if he or she was hospitalized), we are unable to determine if a person *willfully* failed to appear in court. Furthermore, it has come to our attention that in certain circumstances, a bench warrant may be issued by the judge to “maintain jurisdiction over the case,” rather than due to a FTA; we are unable to identify bench warrants issued for this purpose.

### *Rearrest During the Pretrial Period*

We determine that a person released pretrial was rearrested during the pretrial period using data from AJIS, more specifically, if they have a cite/release or booking after they were released pretrial and before the end of the pretrial period. Because we use AJIS data, we do not include cites/releases other than Sheriff’s arrests outside the County, or arrests by State or Federal law enforcement agencies.

## **Pretrial Release Programs**

For pretrial release program data, the following steps are taken to verify whether they were part of the pretrial population:

### *The Bail Project*

We received data on 376 cases for which TBP paid their bail between January 2019 and December 2020. The following steps resulted in fewer cases being included in our sample:

- Out of the 376 cases, we can only verify 322 cases as having been released pretrial after 2018;
- Of the 54 records that cannot be verified as having been released pretrial, 34 cases were dropped due to record mismatch against the pretrial population that we have selected (this can be due to multiple reasons, such as court case numbers not being recorded correctly in booking records, booking numbers not being recorded correctly in court records, first new booking for a case did not fall into the qualifying parameter of being after 2018, case number or defendant number was entered incorrectly in TBP data, or in the case of multiple cases occurring per individual, TBP may have entered a single case number that did not correspond with the case number that is in the pretrial population); and
- Another 20 cases were dropped because AJIS indicated that they were not released during the pretrial period.

### *PREP Pilot*

- **PSA Releases:**
  - We received data indicating 1,929 bookings as having been granted PSA release from March 2020 to December 2020;
  - Out of the 1,929 bookings, we can only verify 1,030 as having been released pretrial after 2018; this is more likely because prosecutors have not yet filed charges against

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most of the remaining bookings, which means there is no related court case in TCIS for us to match against; and

- Another 21 individuals were dropped because AJIS indicated that they were not released during the pretrial period.
- **Criminal Court Assessment Tool Releases:**
  - We received data indicating 3,835 court cases as having been assessed through the CCAT from June 2020 to December 2020, out of which 1,307 had a favorable pretrial release decision; and
  - Out of the 3,835 cases, we were only able to link 3,521 to our pretrial sample due to record mismatches (most likely because the court case number or defendant number was entered incorrectly in CCAT data); of them, 1,153 had a favorable pretrial release decision.

## Supportive Services Programs

### *Department of State Hospitals Diversion:*

- A total of 220 cases are recorded as having been assisted by DSH Diversion, which included data for enrollments from March 2019 to December 2020;
- Out of the 220 cases, we can only verify 136 cases as having been part of the pretrial population;
- Of the 84 records that cannot be verified as having been part of the pretrial population, 61 cases were dropped due to record mismatch against the pretrial population that we have selected (this can be due to multiple reasons, such as court case numbers not being recorded correctly in booking records, booking numbers not being recorded correctly in court records, or booking number was entered incorrectly in DSH Diversion data). The matching is done via booking number and
- Another 23 cases were dropped because the program enrollment date was not within the pretrial period.

### *Felony Incompetent to Stand Trial, Community-Based Restoration:*

- A total of 544 cases are recorded as having been assisted by FIST-CBR, which included data for enrollments from July 2018 to December 2020;
- Out of the 544 cases, we can only verify 357 cases as having been part of the pretrial population;
- Of the 187 records that cannot be verified as having been part of the pretrial population, 161 cases were dropped due to record mismatch against the pretrial population that we have selected (this can be due to multiple reasons, such as court case numbers not being recorded correctly in booking records, booking numbers not being recorded correctly in court records, or booking number was entered incorrectly in FIST-CBR data). The matching is done via booking number; and
- Another 26 cases were dropped because the program enrollment date was not within the pretrial period.

### *Maternal Health:*

- A total of 261 cases are recorded as having been assisted by Maternal Health, which included data for enrollments from April 2018 to November 2020;
- Out of the 261 cases, we can only verify 28 cases as having been part of the pretrial population;

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- Of the 233 records that cannot be verified as having been part of the pretrial population, 140 cases were dropped due to record mismatch against the pretrial population that we have selected (this can be due to multiple reasons, such as court case numbers not being recorded correctly in booking records, booking numbers not being recorded correctly in court records, or booking number was entered incorrectly in Maternal Health data). The matching is done via booking number; and
- Another 93 cases were dropped because the program enrollment date was not within the pretrial period.

### *Misdemeanor Incompetent to Stand Trial, Community-Based Restoration:*

- A total of 1,701 cases are recorded as having been assisted by MIST-CBR, which included data for enrollments from July 2018 to December 2020;
- Out of the 1,701 cases, we can only verify 732 cases as having been part of the pretrial population;
- Of the 969 records that cannot be verified as having been part of the pretrial population, 880 cases were dropped due to record mismatch against the pretrial population that we have selected (this can be due to multiple reasons, such as court case numbers not being recorded correctly in booking records, booking numbers not being recorded correctly in court records, or booking number was entered incorrectly in MIST-CBR data). The matching is done via booking number; and
- Another 89 cases were dropped because the program enrollment date was not within the pretrial period.

### *ODR Housing:*

- A total of 2,539 cases are recorded as having been assisted by ODR Housing, which included data for enrollments from September 2018 to December 2020;
- Out of the 2,539 cases, we can only verify 220 cases as having been part of the pretrial population;
- Of the 2,319 records that cannot be verified as having been part of the pretrial population, 1,353 cases were dropped due to record mismatch against the pretrial population that we have selected (this can be due to multiple reasons, such as court case numbers not being recorded correctly in booking records, booking numbers not being recorded correctly in court records, or booking number was entered incorrectly in ODR Housing data). The matching is done via booking number; and
- Another 966 cases were dropped because the program enrollment date was not within the pretrial period.

### *Project 180's Supervised Release Program:*

- A total of 254 cases are recorded as having been assisted by Project 180, which included data for enrollments from June 2020 to December 2020;
- Out of the 254 cases, we can only verify 227 cases as having been released pretrial after 2018;
- Of the 27 records that cannot be verified as having been released pretrial, 24 cases were dropped due to record mismatch against the pretrial population that we have selected (this can be due to multiple reasons, such as court case numbers not being recorded correctly in booking records, booking numbers not being recorded correctly in court records, or case number or defendant number was entered incorrectly in Project 180 data). The matching

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is done via both the court case number and defendant ID against the pretrial population records; and

- Another three cases were dropped because we found that they were in custody throughout the pretrial period.

### **Demographic Characteristics**

*Sex, race/ethnicity, and age* were determined using the relevant fields—when they were available—from all source systems that participate in the InfoHub.

#### *Sex*

We categorized individuals according to sex (male, female), which was available for 99.98% of individuals in the pretrial population. When we found conflicting values within or between source systems, we resolved them according to the rules below:

1. If there is only one value, use that value;
2. If there are two different values, and one of them is *Unknown* (decline to state, null, etc.), use the other value;
3. If there are two or more different values that are not *Unknown*, use the most recent value; and
4. If the only value is *Unknown*, keep as is.

#### *Date of Birth*

Date of birth was available for 100% of the pretrial population. When we found conflicting values within or between source systems, we resolved them according to the rules below:

1. If there is only one value, use that value;
2. If there are two different values, and one of them is *Unknown* (decline to state, null, etc.), use the other value;
3. If there are two or more different values that are not *Unknown*, use the most recent value; and
4. If the only value is *Unknown*, keep as is.

#### *Race/Ethnicity*

Race/ethnicity was available for 97.9% of individuals in the pretrial population (Conflicting Values, Unknown, or Declined to State). A few systems captured detailed information on race/ethnicity, which we collapsed into more commonly used categories (for example, we categorized Japanese as *Asian* and Salvadoran as *Hispanic/Latino*).

We used the rules below to resolve conflicts within and between all source systems. These rules seek to replicate reporting criteria used by the U.S. Census Bureau, which treats Hispanic ethnicity as separate from race, and thus any person who identifies as Hispanic is reported to be Hispanic, regardless of any additional racial identification.

1. If there is only one value, use that value;
2. If there are two different values, and one value is *Unknown* (decline to state, null, etc.), use the other value;
3. If there are two or more different values, and one is *Two or More Races*, use *Two or More Races*;
4. If there are two or more different values, and one is *Hispanic/Latino*, use *Hispanic/Latino*;

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5. If there are two or more different values, neither of which is *Hispanic/Latino*, and the values came from the same agency/department, use *Two or More Races*;
6. If there are two or more different values, neither of which is *Hispanic/Latino*, and the values did not come from the same agency/department, use *Conflicting Values*; and
7. If the only value is *Unknown*, keep as is.

After applying the rules above, we collapsed the following groups, which had relatively few individuals in them, into the “other” race/ethnicity category: *Native American/Alaska Native, Native Hawaiian/Pacific Islander, Other, or Two or More Races*.<sup>3</sup> In addition, we collapsed the following groups into the “unknown” race/ethnicity category: *Conflicting Values, Unknown, or Declined to State*.<sup>4</sup>

### Determination of Vulnerable Status

For the purposes of this report, we use the term *vulnerable populations* to refer to individuals who have been diagnosed with SMI and those who have experienced homelessness or chronic homelessness. This is not meant to imply that these are the only—or the most—vulnerable populations in the justice system, but rather reflects groups that are often the focus of justice reform efforts and for which data is available in the InfoHub.

#### Diagnosed with SMI

An individual was identified as having been diagnosed with SMI if their diagnoses in IBHIS included any of the codes listed in the table below.<sup>5</sup> All codes in the table correspond to the *International Classification of Diseases, version 10*, commonly known as *ICD-10*. When diagnoses codes used the previous ICD version (ICD-9), we used a crosswalk table provided by DMH staff to convert them to ICD-10.

Data in the InfoHub does not allow us to determine the date of the diagnosis.

Table A-0-2. ICD-10 Codes Used to Determine SMI Diagnoses

Diagnosis Description	ICD-10 Codes
Schizophrenia	F20.0, F20.1, F20.2, F20.3, F20.5, F20.81, F20.89, F20.9
Schizoaffective Disorders	F21, F22, F23, F24, F25.0, F25.1, F25.8, F25.9
Psychotic Disorders	F28, F29, F30.10, F30.12, F30.13, F30.2, F30.8, F30.9
Major Depressive Disorders	F32.1, F32.2, F32.3, F32.81, F32.89, F32.9, F33.1, F33.2, F33.3, F33.8, F33.9, F34.0, F34.1, F34.81, F34.89, F34.9, F39
Bipolar Disorders	F31.0, F31.10, F31.12, F31.13, F31.2, F31.30, F31.32, F31.4, F31.5, F31.60, F31.62, F31.63, F31.64, F31.81, F31.89, F31.9
Borderline Personality Disorder	F60.3

#### History of Chronic Homelessness

From the systems that contribute data to the InfoHub, chronic homelessness is only captured in LAHSA’s HMIS, which uses the U.S. HUD definition of chronically homeless.

<sup>3</sup> Only 2.1% of the pretrial population fell into one of these four categories.

<sup>4</sup> Only 2.1% of the pretrial population fell into one of these three categories.

<sup>5</sup> Substance Abuse and Mental Health Services Administration. (2016). *Behind the Term: Serious Mental Illness*. Available online at <https://www.hsdl.org/?abstract&did=801613>, last accessed April 16, 2021.



## Appendix B: Comparison of Pretrial Outcome Estimates With Those From Other Studies

	Los Angeles County	Los Angeles County	Santa Clara County	New York City, NY	New York City, NY	Harris County, TX	New Orleans, LA
Source	This study	Hess & Turner, 2020	Fisk, 2021	Fishbane et al., 2020	Skemer et al., 2020	Greiner et al., 2020	Austin, 2020
Period of estimation	2018-2020	2015-2018	2018-2020	2016-2017	2017-2018	2017-2019	2018
No. of releases	297,357	499,928	Pending	323,922	4,121	61,603	960
Unit of analysis	Case	Booking <sup>1</sup>	Case	Case	N/A	Case	Case
Important inclusion/exclusion criteria	All pretrial releases (cites, OR, bail/bond and others)	Only cites, OR, and bail/ bond releases	No field cite/releases	Only field Court summons, not jail-based releases	Only cases released under pretrial supervision	Only PSA-screened releases; no cite/releases	Only felony cases screened with the PSA; no cite/releases
Notes on methodology	Rearrests include citations	Shorter follow-up for rearrests than for FTAs				Rearrests determined using new PSA entry	
<b>Estimated Outcomes</b>							
All FTAs	45%	45%	-	-	-	-	-
Cite FTAs	58%	-	-	47%	-	-	-
Non-Cite FTAs	31%	-	~26%	-	16%	27%	13%
Rearrests for new offenses	34%	24%	-	-	-	-	-
Non-Cite rearrests for new offenses	32%	-	-	-	41%	17%	14%
<b>Pretrial releases included</b>							
Citations	Yes	Yes	Only jail cites	Yes	No	No	No
Bail/Bond	Yes	Yes	Yes	No	Yes	No	Yes
Own Recognizance	Yes	Yes	Yes	No	Yes	Yes	Yes
Other pretrial releases	Yes	No	Yes	No	Unclear	No	Unclear
FTA definition	Bench warrant	Bench warrant	Bench warrant	Bench warrant	Bench warrant	Bench warrant	Unclear
<b>Rearrest definition includes</b>							
Citations	Yes	Yes	-	-		No	Unclear
Bookings	Yes	Yes	-	-	Yes	No	Unclear
Only if charges filed	No	No	-	-	No	No	Unclear
Length of follow-up	Life of the case	Life of the case	Life of the case	N/A	FTA: life of the case; Rearrest: 9 months	Life of the case	Unclear

<sup>1</sup> In our study, we identified all bookings related to a criminal case and used the date of the first booking as the start of the pretrial period. Only the first pretrial release associated to a case is included in our analyses. Hess and Turner (the only other study that used County data) used bookings as the unit of analysis; thus, if one case had two separate bookings, both were counted separately in their sample.

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	Los Angeles County	Charleston, SC	Nevada	New York City, NY
<b>Source</b>	This study	Austin et al., 2019	Austin & Allen, 2016	
<b>Period of estimation</b>	2018-2020	2018	2014	
<b>No. of releases</b>	297,357	2,090	1,057	26,820
<b>Unit of analysis</b>	Case	Case	Case	Person
<b>Important inclusion/exclusion criteria</b>	All pretrial releases (cites, OR, bail/bond and others)	Only cases screened with a risk assessment	Random sample of pretrial releases in three Nevada counties	Included only post-arraignment pretrial releases
<b>Notes on methodology</b>	Rearrests include citations		Unclear length of follow-up	
<b>Estimated Outcomes</b>				
All FTAs	45%	-	-	-
Cite FTAs	58%	-	-	-
Non-Cite FTAs	31%	8%	18%	16%
Rearrests for new offenses	34%	-	-	-
Non-Cite rearrests for new offenses	32%	23%	13%	17%
<b>Pretrial releases included</b>				
Citations	Yes	No	No	No
Bail/Bond	Yes	Unclear	Yes	Yes
Own Recognizance	Yes	Yes	Yes	Yes
Other pretrial releases	Yes	Unclear	Yes	No
<b>FTA definition</b>	Bench warrant	Bench warrant	Bench warrant	
<b>Rearrest definition includes</b>				
Citations	Yes	Unclear	Unclear	
Bookings	Yes	Yes	Unclear	
Only if charges filed	No	Unclear	Unclear	
<b>Length of follow-up</b>	Life of the case	3 to 15 months	Unclear	8 to 10 months