

# Research roundup: Evidence that a single day in jail causes immediate and long-lasting harms

*Recent research suggests the onset of pretrial detention's criminal legal system, social, and economic harms is earlier than previously thought.*

by [Brian Nam-Sonenstein](#), August 6, 2024

The criminal legal system views pretrial detention as a necessary sacrifice that prioritizes crime prevention and court attendance over personal liberty. However, detention is demonstrably ineffective on both fronts: when compared to releasing people pretrial, jail counterintuitively *worsens* these outcomes on day one while making the system decidedly more unjust for those behind bars. These failures come at a steep cost, as detention also immediately disrupts a person's ability to work and increases their risk of death. Horrendous jail conditions are only partially to blame; on a more basic level, pretrial detention's disruptive and stigmatizing effects help explain why it fails to live up to its promises,

and no amount of **newer, nicer jails** can change that.

Judges contemplate the risk a person poses to the community if released, but — crucially — not the risk *detention* poses to individuals and the community. What are the risks of detention, how quickly do they materialize, and what might the system look like if they mattered in bail determinations? To answer these questions, we examined recent studies that measure pretrial detention’s impact on people, particularly within the first 72 hours in jail. Building on our investigations into **pretrial detention’s role in destructive cycles of arrest and incarceration**, the **benefits of pretrial release**, and **the dangers of jail expansion**, we find that there is no “safe” way to jail a person, nor is there an amount of time a person can be detained without escalating short- and long-term risks to themselves and their communities.

As we discuss below, if judges considered these harms and their implications for public safety when deciding whether to initially release or detain people, far fewer people would be jailed pretrial, shrinking the system to a tiny fraction of its current size.

*Each day a person spends in pretrial detention was strongly associated with a consistently higher likelihood of a new arrest pending trial compared to those who are not detained.*

## **Pretrial detention doesn't deter crime or ensure court attendance, but it does undermine basic fairness in the legal process**

At arraignment, judges are tasked with quickly deciding whether the defendant is likely to commit a new crime and whether they are likely to return to court if they are released. However, they do not consider *detention's* impact on those outcomes. For many defendants, a judge's decision to initially detain means they will be forced to remain in jail for the duration of the pretrial period simply because they **cannot afford their bail**. But roughly two-thirds of people who are initially detained (62%) spend a week or less in jail according to the **most recent data available**. In other words, some people are immediately released while others are initially detained and later released while their trial is still pending.

Researchers have compared these two groups to try and measure the impact of decisions to release or detain on public safety and court appearance. In doing so, they have unearthed a baffling contradiction at the core of this routine process: pretrial detention is seen as tough medicine but it is often a completely unnecessary and short-sighted approach to safety and justice — one that can quickly have opposite, unintended effects.

## **Despite its rationale, pretrial detention does not deter crime**

In general, there is no evidence to support detaining people in the name of public safety before they've been convicted of a crime. In fact, just a day or two in pretrial detention makes communities *less* safe. **One 2022 study**, for example, examined a robust dataset collected from 1.5 million people booked into a Kentucky jail between 2009 and 2018. Researchers found that each day a person spent in pretrial detention was strongly associated with an escalating risk of a new arrest when that person was later released before the end of their trial. After one day in jail, the risk of rearrest was 24%; after the third day, it jumped to 45%, eventually reaching nearly 60% by the 12th day. Other studies with longer timelines produced similar

results: researchers investigating **Harris County, Texas** — home to some of the **most sweeping pretrial reforms** in recent memory — found that detention *increased* the number of new charges. Compared to people who had been released, misdemeanor defendants who had been detained for at least a week were charged with 11% more *new* misdemeanors within a month of their bail hearings.

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Consistent with these findings, and contrary to fears that releasing people pretrial will lead to more crime, communities that have reformed their pretrial processes have **repeatedly reported successful outcomes**. New Jersey, for example, implemented a risk-informed approach to pretrial release and virtually eliminated the use of cash bail in 2017. **Serious crime rates fell** and the percentage of **people arrested for new crimes** while awaiting trial only increased by one percentage point. In Illinois, early results indicate **re-arrests have not substantially increased** for people awaiting trial after the state ended money bond, even as jail populations have

declined. Another study examining 421,850 cases from Philadelphia (Pa.) and Miami-Dade (Fla.) counties also concluded release had **no detectable effect on new crime** in the two years after the initial bail hearing.

## **There are better ways to ensure court attendance than pretrial detention**

It may seem intuitive that short jail stays can “scare someone straight” and deter them from missing court when they’re later released before the end of their trial.

But detention does not work this way. This is because, for the most part, people who miss court are not trying to evade the legal process. On the contrary, when people are jailed, they can **lose their housing, jobs, and transportation**, making it harder for them to get to court.

The same Kentucky study, for example, found that the chances a person would miss court were actually higher for those who were detained: they were 6% more likely to miss court after being held for just one day and 26% more likely after eleven days of detention. Overall, though, the degree of increased risk varied, leading researchers to conclude that detention doesn’t have a consistent relationship with court attendance. Again, we see similar results in other studies examining detention’s impact on court

appearance: in New Jersey, court attendance dropped only 3% after the state drastically reduced the use of cash bail. In short, the evidence shows that pretrial detention has no meaningful benefit for court appearances.

Detention is a very blunt tool for ensuring court attendance. There are **other, more effective, and less destructive alternatives** that directly address the barriers people most often face. Court reminders, flexible scheduling, transportation and language support services, and simplified court procedures attend to the causes of failure to appear without exposing people to the toxic effects of jail.

## **Detention undermines fairness in the legal process**

Pretrial detention is a source of injustice in the legal process because it puts people under enormous pressure to plead guilty and resolve their cases, regardless of actual guilt or innocence. As a result, people who are detained pretrial are more likely to be sentenced to jail or prison — and receive a longer sentence — than those who are released. The Kentucky study found that people released pretrial were about 25-50% less likely to receive a sentence

of incarceration than people who were detained. This dynamic endures even for people who are released pretrial and fail to appear in court or are rearrested — this group *still* had better case outcomes on average compared to those who were detained. The Philadelphia/Miami-Dade study similarly found release reduced both the likelihood of pleading guilty (by 25%) and conviction (by 24%) compared to the average person in detention.

It's easy to understand why release leads to better case outcomes: it strengthens defendants' bargaining positions, particularly for those charged with less serious crimes and who have no prior offenses. The stressful, disruptive, and dangerous experience of detention **pressures many people into simply pleading guilty** in hopes that doing so will more quickly end their contact with the system.

Furthermore, it is very, very hard to defend oneself from criminal charges while in jail, where it is **much harder to contact** people who can help. The final analysis is exceedingly grim: the research suggests that pretrial detention fails to produce safety and encourage court attendance at the immense cost of undermining the basic fairness of the criminal legal process.

Part of what makes this all so baffling is that detaining people unnecessarily and subjecting them to the harms of jail degrades their belief in the criminal legal system as a legitimate institution, which studies of “procedural justice” have linked to law-abiding behavior. In other words, when people are treated unjustly by the police or courts, they see less reason to comply with them. Judges and prosecutors may believe detention is a safer choice, even despite the research, but this impulse may actually set off a chain reaction that puts justice further out of reach and makes everyone less safe all at once.

## Employment, health, housing, government benefits, and more are jeopardized by detention

Even a day or two in pretrial detention can destabilize a person’s life for years to come, contributing to its counterproductive influence on safety and justice. Courts should consider these outcomes in their pretrial calculus. One study looking at participants in two San Francisco pretrial diversion programs between 2013 and 2018 found that nearly half reported suffering a “material loss” from detention, including legal debt (36%), missed work (40%),

lost jobs (18%), and lost property (18%). Focusing specifically on employment, this study suggests that people's livelihoods are at stake within the first three days behind bars: 7% of people held for just one to three days, and 30% of people held for four to seven days, reported losing their jobs. Black (64%) and multiracial (50%) workers who missed work due to detention fared the worst, losing jobs more often than white (36%) and Latino (33%) workers because they were held in detention longer on average.

*People who were detained, but who had been employed most if not all of their adult lives, were dramatically more likely to lose their jobs due to missing work than those released. This risk only got worse the longer they were in detention.*

Even those with strong work histories are no match for the destructive power of pretrial detention. The same study found people who lost their jobs or whose vehicles were seized when they were detained struggled to maintain stable employment, even years later. Twenty-five percent of people with strong work histories who lost their jobs or vehicles while they were detained reported being unemployed immediately after detention *and* three years

later — more than twice the rate of those who didn't lose their jobs or cars. Black and Latino defendants suffered vehicle loss at disproportionately high rates, further contributing to employment instability.

**Even those with strong work histories are no match for the destructive power of pretrial detention.**

Regardless of the amount of time spent behind bars, pretrial detention poses other serious threats to people's livelihoods when they are eventually released. **One survey** of over 1,500 people arrested and charged in New York City between 2019 and 2021 found:

**Lost jobs and barriers to employment.** People who have been detained pretrial lose jobs more frequently than those who are released, while also struggling to get new jobs, encountering transportation issues, and contending with more “job issues” like fewer hours, demotions, and lost clients. In particular, detained people were 34% more likely to report that they had job issues than those who were released. Stigma and discrimination against people who have been detained, regardless of whether they had a

record of prior convictions, deterred employers from hiring this group. Some people internalized this experience and were discouraged from job-seeking and participating in the labor market at all.

**Loss of government benefits and housing.** People who are detained pretrial are more likely to lose government benefits than those who are released. Those who were detained were around 30% more likely to lose benefits since their arrest than released respondents. People who were detained were also more than four times (420%) more likely to become unhoused than those who were released.

*Pretrial detention raises the risk of death, including suicide, almost immediately upon admission. Twenty percent of all adult suicides in the U.S. in 2019 were among people who had spent at least one night in jail in the past year, and most suicides in jails occurred shortly after entering detention.*

Other research shows that pretrial detention can be immediately life-threatening. **Suicide becomes a serious risk very quickly:** even our nation's top officials acknowledge that "certain features of the jail environment **enhance suicidal behavior.**" A recent study estimated that 20% of all adult suicides in the U.S. in 2019

were among people who had spent **at least one night** in jail in the past year.

For suicide and deaths linked to drugs or alcohol, those first few days in jail are the deadliest. Most suicides in jail occurred shortly after admission: 12% of jail suicides between 2015 and 2019 occurred in the first 24 hours, 44% occurred within the first week, and two-thirds (66%) occurred **within the first 30 days of incarceration**. From 2000 to 2019, the median time in jail before a drug or alcohol intoxication death was **just one day**. Jail's lethality has been trending upward over the years: from 2000 to 2019, the number of jail deaths occurring within the first 7 days of detention rose by nearly 44%.

## **Arrests have severely destabilizing consequences, too**

A person's life can be upended, even if they don't spend time behind bars.

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This growing body of research refutes the rampant myths and fear-mongering that suggest pretrial detention is a bitter pill that is ultimately in everyone's best interests. They show that even a day or two in jail can cause immense and long-lasting harm — harm that judges tragically and systematically ignore when deciding whether to release or detain someone. If detention's costs were considered, however, they would almost certainly tip the scales toward release in nearly every case, leading to better public safety outcomes, improved court attendance, a more just legal process, and fewer destructive effects on people's livelihoods.

**If judges considered detention's risks to our communities, they would detain *far* fewer people**

Under our current system, judges only weigh the government's interest in public safety and court appearance against an individual's constitutional right to liberty and due process. In other words, judges are entirely focused on the risks of release and whether they outweigh someone's right to freedom — ignoring detention's serious, immediate risks to individuals and public safety.

But what would happen if judges considered the costs of detention more holistically, as anyone facing detention naturally would? Recently, scholars have tackled this exact question in a novel way. In *Pretrial Detention and the Value of Liberty*, researchers asked survey respondents to compare spending time in jail to being the victim of a crime, to gauge how much future crime would have to be avoided to reasonably justify preventative detention. They asked questions like, “If you had to choose between spending a month in jail or being the victim of a burglary, which would you choose?” Their results show that people see pretrial detention as an extremely bad experience: Most said that spending just *one day* in jail would be as bad as being the victim of a burglary, and a month would be as bad as an aggravated assault. This finding held across subgroups, including those who have

experienced victimization and incarceration, and across racial and ethnic groups.

The results show that the public has a *much* higher risk threshold for detention than courts do. If it were up to a typical respondent, even a day of pretrial detention would only be justified on public safety grounds if the defendant was virtually certain to commit a serious crime if released. In reality, even people considered to pose the highest risk of committing a violent offense if released (according to a risk assessment tool) have a relatively low risk of rearrest. By this study's measure, then, detaining even the "highest risk" defendants would prevent too little crime to justify the immense human cost of detention. If courts also recognized that the harms are so severe that detention can rarely be justified, and other, less costly alternatives are available, society's current investment in pretrial detention would make a lot less sense.

## **There are better alternatives for public safety than pretrial detention**

As argued earlier in this briefing, judges are generally absolved of having to consider the dangers posed by

detaining people. That's awfully convenient because, from the perspective of prosecutors and judges — largely elected officials whose own statuses are at stake when they make decisions — the risks of releasing the “wrong person” far outweigh those of detaining the “wrong person.” If the dangers of even a few days in detention were part of the cost-benefit analysis, however, this tradeoff would be far less of a commonsense slam dunk.

Given the immediate, long-lasting, and sometimes irreversible harms of pretrial detention, **reforms that prevent** as many people as possible, as early as possible, from being detained can have significant, positive downstream effects on public safety. Such reforms include:

- Creating diversion opportunities at multiple points in the legal process, especially before and directly after arrest;
- Ending cash bail;
- Providing public defenders at first court appearance to ensure people's unique circumstances are communicated to decision-makers;

- Developing more robust, voluntary, community-based pretrial supports that help people navigating the system; and
- Encouraging judges and prosecutors to be less punitive by educating them on the risks of pretrial detention, carefully and publicly monitoring their decision-making, and removing judges and prosecutors who continue to overuse pretrial detention.

Interventions earlier in the legal process can also make a meaningful difference by heading off the risk of detention from the start — especially interventions that reduce the frequency and seriousness of police contact and prevent jail capacity from expanding. These include:

- Reducing police contact and reclassifying offenses and how they're treated, such as reducing misdemeanors to non-jailable infractions and implementing a presumption of citation in lieu of arrest;
- Reducing reliance on pretrial detention by limiting jail capacity. This can be done by, for example, preventing the construction of new jails and ending bedspace rental (which increases demand beyond pretrial detention and fuels jail growth); and

- Decriminalizing drugs, poverty, sex work, and homelessness.

Taking risks to public safety seriously requires an accounting of the harms of detention. The data show that jurisdictions can much more heavily favor release without sacrificing public safety and may be more likely to improve safety over the status quo by doing so. The logic of pretrial detention does not stand up to scrutiny, and its mythical power to protect public safety should be abandoned in favor of less harmful alternatives.

## Footnotes

1. While this briefing focuses on evidence that the harms of pretrial detention are immediate and long-lasting, other studies we have referenced in previous publications support the same general findings. To recap, these studies provide further evidence that, compared to similarly-situated peers who are not jailed, people detained pretrial are:
  - Less likely to appear in court. See:
    - C.T. Lowencamp, M. VanNostrand, and A. Holsinger (Laura and John Arnold

Foundation), [The Hidden Costs of Pretrial Detention](#), 2013.

- More likely to plead guilty and be convicted. See:
  - Emily Leslie and Nolan G. Pope, [The Unintended Impact of Pretrial Detention on Case Outcomes: Evidence from New York City Arraignments](#), 2017.
  - M.T. Phillips (New York City Criminal Justice Agency), [A Decade of Bail Research in New York City](#), 2012.
  - Megan Stevenson, [Distortion of Justice: How Inability to Pay Bail Affects Case Outcomes](#), 2016.
- More likely to be sentenced to incarceration and to receive longer carceral sentences. See:
  - C. Oleson, C.T. Lowenkamp, J. Wooldredge, M. Van Nostrand, and T.P. Cadigan, [The Sentencing Consequences of Federal Pretrial Supervision](#), 2014.
  - C.T. Lowenkamp, M. VanNostrand, and A. Holsinger (Laura and John Arnold Foundation), [Investigating the Impact of](#)

Pretrial Detention on Sentencing Outcomes, 2013.

- Meghan Sacks and Alissa R. Ackerman, [Bail and sentencing: Does pretrial detention lead to harsher punishment?](#), 2014. (This study finds no impact on the decision to sentence to incarceration, but does find that people detained pretrial receive longer sentences when they are sentenced to prison or jail.)
    - More likely to commit or be rearrested for a future crime.
  - Emily Leslie and Nolan G. Pope, [The Unintended Impact of Pretrial Detention on Case Outcomes: Evidence from New York City Arraignments](#), 2017.
  - C.T. Lowencamp, M. VanNostrand, and A. Holsinger (Laura and John Arnold Foundation), [The Hidden Costs of Pretrial Detention](#), 2013. ↩
2. For the most part, judges base their decisions on the individual's demographic characteristics, past criminal record, and the charges brought against them, sometimes with the aid of [algorithmic risk](#)

**assessment tools**. Even in cases where risk assessment tools consider **substance use** and **mental illness**, it is only to determine conditions of release (like drug testing) or to increase a person's risk score and discourage judges from releasing them — not to assess whether they can be “safely” detained. ↩

3. In fact, this is likely an underestimate and more people who are initially detained pretrial are released within a week or less. Pew's estimate is based on data from large jail jurisdictions using the Bureau of Justice Statistics' **2014 Annual Survey of Jails**. ↩
4. The one-week timeframe for this finding should not be misread as an indication that the impact on new charges only affects those held for a week or longer; it is instead an artifact of how the researchers defined “released” and “detained” in the study. Those who were released within 7 days of their bail hearing were considered “released” for comparison purposes against those detained for a week or longer. In this respect, this study differs from others discussed here

that provide evidence of impacts that occur in the first few days. ↩

5. Technically speaking, even people who remain in detention can still miss court. In fact, many “failures to appear” among people who are detained can be attributed to jails themselves: **One in four people jailed in New York City miss court hearings and trials** due to transportation delays. In Los Angeles in 2022, **40% of county jail transport buses broke down**, causing many people to miss court and spend more time locked up. ↩
6. Most people who miss court will eventually return: one study from the Bureau of Justice Statistics found that **less than 8% of people** facing felony charges who were released without the involvement of a bail bond agent — in other words, without unaffordable bail — failed to return to court within a year. ↩
7. As the American Bar Association notes, “**people plead guilty for various reasons**, including innocent people.”

They point out that “powerful incentives present in the plea-bargaining system can lead to false pleas by the innocent, a phenomenon that not only results in an unjust conviction, but that also places the community at risk because the actual perpetrator may unknowingly remain at large to offend again.” ↩

8. Additionally, three percent of people held less than a day in detention lost their jobs. If some of these figures seem relatively small, remember that there are roughly 8 million jail bookings each year; even small fractions of the detained population experiencing detention-related harm translates to large numbers of people. ↩

9. As the authors note, “The justification for preventive detention is merely ‘risk,’ and risk is amorphous. So the central question for any preventive detention regime is what kind and degree of risk is sufficient to justify the detention at issue.” ↩

10. The survey results undoubtedly reflect respondents' awareness of the terrible conditions found in most jails (including violence, unsanitary and dangerous living conditions, etc.). However, as the other studies in this briefing show, jail conditions do not give us the full picture: plucking people out of communities and confining them in jails causes them to lose jobs, vehicles, government benefits, and housing; accrue debts; and more. Improving jail conditions would not address detention's stigmatizing and disruptive qualities. It is detention that is the primary factor here, not simply the quality of it. ↩

11. As the authors note, they did not attempt to calculate the relative harm value of murder, rape, or domestic violence because they are extremely severe harms that they don't expect will be measured well with the current research design. "It is not meaningful to ask how long someone would stay in jail to avoid being murdered," they write, adding, "most everyone would agree to a lifetime. One could ask respondents how much time they would spend in jail to eliminate a given probability—say 10%—of being murdered, but

then we are heavily leaning on people's ability to evaluate small risks." It is also important to note that what constitutes a "violent crime" varies from state to state. An act that might be defined as violent in one state may be defined as nonviolent in another.

Moreover, sometimes acts that are considered "violent crimes" do not involve physical harm. For example, as [The Marshall Project explains](#), in some states entering a dwelling that is not yours, purse snatching, and the theft of drugs are considered "violent." The Justice Policy Institute explains many of these inconsistencies, and why they matter, in its report [Defining Violence](#).



12. A breakdown of responses by demographic subgroup can be found [here](#). ↩

13. Only 2.5% of defendants in the highest risk group as measured by the [COMPAS risk assessment tool](#) were actually rearrested for a violent offense within a month. This means that detaining everyone classified

as high risk by the COMPAS tool would avert only 25 violent offenses for every 1,000 people detained for a month. ↩

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