

Introduction to Pretrial Research in Action: Four Articles From RTI International

By Matthew DeMichele
RTI International

THE PRETRIAL PHASE is often said to be the most consequential in the criminal process, because it is related to several legal (e.g., conviction, incarceration) and personal (e.g., lost jobs, family conflicts) outcomes for defendants. During pretrial, individuals are legally innocent and have a right to be released, but jails are filled with pretrial detainees. For the most part, pretrial release decisions are based on the seriousness of the crime and prior criminal history, but these decisions are often made quickly and with limited information to make the most effective decisions. Pretrial release decisions are especially challenging because judges grapple with balancing public safety and the inherent rights of the accused.

RTI partnered with Arnold Ventures and multiple county-level criminal legal system agencies to conduct a series of studies to document effective implementation processes, develop validation tools, and investigate potential improvements to pretrial decisions. These activities were complemented by a comprehensive dissemination strategy to promote an evidence base that identifies ways to develop, implement, and use pretrial risk assessments that maximize validity, minimize bias, and increase fairness in decision making. RTI completed three main tasks for this six-year study. We assessed local implementation of various pretrial reforms and conducted simulation studies to estimate the potential effect of policy interventions (DeMichele et al., 2024a). RTI conducted a series of validations and tests of predictive bias of local release models (DeMichele et al., 2024b). In addition, RTI conducted a series of analyses of local administrative data to understand

the effects of pretrial detention and whether there are interventions that can reduce racial disparity in the use of detention (Silver et al., 2024). The APPR research resulted in a deeper understanding of the challenges local systems actors face when implementing a risk assessment or making other policy changes (Grodensky et al., in press). RTI's research efforts have impacted thousands of people involved with criminal legal systems across these counties.

We are excited to partner with *Federal Probation* to share the results of four new APPR studies. The research reported in this set of articles contributes to a growing pretrial knowledge base across four main areas. First, Inkpen et al. provide an understanding of a persistent policy challenge facing pretrial scholars in understanding the frequency of rearrests and the types of charges people released pretrial commit. This study explores the relationship between a person's initial charge, resulting in their admission to jail, and any subsequent pretrial arrest. The central concern here is to understand arrest patterns for violent crimes. The key takeaways are that three-quarters of people admitted to jail do not have a pretrial arrest, and that new arrests are more likely to be for misdemeanors (not felonies). Inkpen et al. show that one-third of admissions are for a violent crime (the most common crime type). Despite violent admissions being prevalent, property crimes are the most common type of rearrest (31 percent of new arrests) and those admitted to jail on an initial property crime were the most likely to be rearrested. This research highlights the need for improved systems to assess risks

and needs for individuals released pretrial. Although Inkpen et al. did not explore the mechanisms underlying the rearrest patterns, it is possible that individuals with high frequency of property crimes may be involved with drugs and looking for ways to support their addiction.

In a second APPR research study, Janda et al. contribute to a major gap in research related to the use of risk assessments with domestic violence cases. Drawing on data from two APPR jurisdictions, Janda et al. show that nearly a quarter of jail admissions were for a violent charge, and domestic violence cases accounted for just over three-quarters of these admissions. Clearly, domestic violence charges are a major issue for local decision makers. The study provides several descriptive characteristics of those admitted to jail for domestic violence, with the main purpose of the article bring to determine how a pretrial risk assessment, the Public Safety Assessment (PSA), can assist pretrial release decisions for individuals accused of domestic violence. Individuals not admitted for a domestic violence charge have lower average risk scores despite the fact that those admitted for a domestic violence charge have a lengthier violent crime history. Janda et al. provide a thorough comparison of those admitted on a domestic violence charge and those not; a key finding is that individuals admitted for a domestic violence charge are 22 percent more likely to be arrested for a new violent crime, 35 percent more likely to be arrested for a new domestic violence crime, and 32 percent more likely to be arrested for a new violent domestic violent crime. However, being admitted for a domestic violence crime

is not statistically associated with a new failure to appear or any new crime.

In a third APPR study, Bechtel et al. provide research on the adherence of judicial release decisions to the release recommendations made by a pretrial services agency and to explore the relationship of adherence on pretrial and case outcomes. The county recently adopted the PSA, and a central element of PSA implementation is the development of a local Release Conditions Matrix (RCM) to match supervision levels and release conditions with PSA scores. The pretrial world has changed dramatically over the past 10 years, as more than half of pretrial agencies now use an assessment (Lattimore et al., 2020). Research demonstrates that actuarial tools improve decisions (Ægisdóttir, White, Spengler et al., 2006), and validation studies have demonstrated that the PSA is a valid tool (DeMichele et al., 2024b). In recent years, however, some research questions whether judges consider assessment-based recommendations when making pretrial decisions (Stevenson, 2018). Bechtel et al. found that of the 8,486 cases, 22 percent were recommended for release, and 78 percent were recommended for detention. Judges agreed with the recommendation in slightly over half of the cases, and ultimately released 61 percent of the individuals. Factors such as presence of the risk assessment violence flag, charge type, and severity all

predicted adherence.

In the fourth APPR study, Silver et al. offer essential policy-relevant research on the effects of pretrial conditions. There is little research on the effects of pretrial conditions. Research on probation and parole have long supported the risk principle in noting that lower risk individuals need few (if any) conditions, and that resources are better used to supervise medium and higher risk individuals. Further, although there is an intuitive belief that more or stricter conditions will reduce recidivism, that is not necessarily the case, as more intensive forms of probation supervision tend to worsen outcomes. Silver et al. consider these questions for pretrial as they demonstrate the effects of using different combinations of pretrial conditions. The findings demonstrate the need for nuance when studying conditions, as not all conditions or combinations of conditions will have the same effects. For example, regular check-ins, electronic monitoring, or treatment reduced the probability that someone would be arrested during pretrial release compared to those not being supervised. However, when individuals are assigned employment and education requirements, location restrictions, or weekly reporting, the probability of a new arrest increases compared to the probability for those not being supervised. The largest decreases in the probability of a new arrest

were observed when treatment was combined with regular check-ins, electronic monitoring, or bi-weekly reporting. Silver et al. emphasize that combining treatment with another pretrial condition generally resulted in reductions in the probability of a new arrest compared to not being supervised.

The four new APPR studies contribute to a pretrial knowledge base, and we are indebted to the local officials that were willing to partner with us on APPR. The studies, of course, are only the beginning of what is needed to understand pretrial recidivism patterns—especially new violent crimes (Inkpen et al.)—and how best to support victims and families involved with domestic violence crimes (Janda et al.). Pretrial assessments have been the focus of many pretrial reforms, but we are just beginning to learn if, when, and how judges use the information and recommendations provided by assessments (Bechtel et al.). Last, Silver et al. provide contemporary evidence demonstrating the need for research to disentangle the heterogeneous effects of different conditions and combinations of conditions. The pretrial field is ripe for conducting additional studies like these four as well as others to continue to build a knowledge base of effective policies and practices that ensure public safety and civil rights.