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**Pretrial Consequences: The Impact of New York State Bail Reforms on Racial and Ethnic
Disparities in Pretrial Outcomes**

A Thesis Presented in Partial Fulfillment of the Requirements
for the Masters in Criminal Justice
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Abstract

This study investigates the impact of New York's 2020 Bail Reforms on racial and ethnic disparities in pretrial outcomes for New York State. 2019, 2020, and 2021 arraignment data from the Office of Court Administration Pretrial Release Datasets are used to determine whether racial and ethnic disparities for White Non Hispanic, Black Non Hispanic, Hispanic, and other race defendants narrowed after the implementation of the new law. The results from descriptive analysis, binary logistic regressions, and ANOVA tests suggest that racial-ethnic disparities have not abated, even though the proportion of defendants required to pay cash bail has sharply declined among all racial and ethnic groups. Black defendants were most disadvantaged in the likelihood of bail being set post reform, while both Latino and Black defendants had significantly higher mean bail amounts compared to White defendants. This study concludes that although reforms did not rectify racial and ethnic disparities in any meaningful way, reducing the number of people subject to money bail still benefited people of color overall.

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Introduction

The purpose and the reality of bail have diverged over the years. Bail originally served the sole function of returning a defendant to court. Yet in practice, the presumption of innocence was only afforded to those who could pay, contributing to swelling jail populations in which Latino and Black individuals were increasingly overrepresented. The national jail population has increased about 20% since 2000 with 95% of that growth attributable to people awaiting trial (Koepke & Robinson, 2018). Much of the increase was driven by changing state policies which barred the denial of bail but imposed no meaningful limits on cash bail (Mayson, 2020). Between 1990 and 2004, 32% of felony defendants in the 75 largest urban jurisdictions of the U.S. were detained on bail they presumably could not pay (Mayson, 2020). Such practices have, in effect, led to widespread detention of the poor and especially disadvantaged defendants of color. According to recent estimates, nearly 7 in 10 (69%) of detainees were people of color with Black and Latino populations occupying a disproportionate piece of the pretrial detainee pie, constituting 43% and 19.6% respectively (James, 2002; Sawyer, 2019). The complexity of interwoven factors that create racially discriminatory justice outcomes can make isolating the effects of bias complicated. However, a large body of social science research shows that bail and successive pretrial detention have largely abetted the criminalization of poverty and exacerbated racial and ethnic disparities in sentencing (Demuth, 2003; Donnelly & MacDonald, 2018; Kutateladze et al. 2014; Omori & Petersen, 2020; Schlesinger, 2005; Schlesinger, 2007; Sutton, 2013).

The original objective of bail was not to incarcerate or prevent defendants from committing future crimes.. Despite the Constitutional standard in the Eighth Amendment's prohibition of excessive bail, it was widely acknowledged that judges deliberately set

unaffordable bail amounts under the pretense of flight risk to detain defendants deemed dangerous or otherwise in need of control (Koepke & Robinson, 2018). This inevitably led to discrimination, particularly of poor and Black defendants, in the pretrial process.

The first wave of bail reform was unsurprisingly galvanized by the civil rights movement. Reformers brought attention to the plight of poor defendants in crowded jails, paving the way for the 1966 Bail Reform Act which promoted release on own recognizance and reduced reliance on money bail (Van Brunt & Bowman, 2018). It was a progressive step forward in that Congress specifically delineated that the only consideration for bail should be risk of flight, with the exception of capital cases (Koepke & Robinson, 2018). Yet progress of this first wave was reversed in the 1970s by a strong flood of tough-on-crime rhetoric and growing concern for public safety. The second wave of bail reforms moved decidedly in the other direction, normalizing the practice of predictive dangerousness and preventive detention and further formalizing it in the Bail Reform Act of 1984, which was upheld in the case of *United States v. Salerno* (1987) (Kazemian et al., 2013; Koepke & Robinson, 2018; Connan, 2002).

Incapacitation, coupled with a desire to preemptively punish, became the unspoken goal, with judicial officers often shirking law in favor of intuition (Van Brunt & Bowman, 2018). The use of money bail increased dramatically. The U.S. Bureau of Justice Statistics reported that in 1990, bail was required from defendants in 37% of felony cases; by 2009, that rate jumped to 61% of all felony cases (Rahman, 2019a).

Systemic bias in bail decisions is arguably one of the most significant contributors to racial and ethnic disparities in incarceration rates. Studies that exclusively highlight racial and ethnic disparities in sentencing at conviction fail to capture how cumulative-step decisions made in the procedural stream produce harsh outcomes. Extant research shows that race remains one of

the strongest predictors of pretrial outcomes — it not only influences pretrial conditions, but also affects decisions in later procedural stages including custodial sentence plea offers, likelihood of incarceration, and sentence type (Demuth, 2003; Donnelly & MacDonald, 2018; Kutateladze et al., 2014; Sutton, 2013; Schlesinger, 2007). An analysis of studies over the past 30 years reveal that even though there is not as much disparity in sentence length for minority defendants, both Latino and Black individuals are far more likely to be disadvantaged in the decision to incarcerate and receive more severe sentences (Kansal & Mauer, 2005). Pretrial detention directly increases the odds of a prison sentence by more than three times, and it is therefore a serious concern for policymakers seeking to reduce racial and ethnic disparities in justice outcomes (Demuth, 2003; Sutton, 2013).

Recently, some jurisdictions have pushed back against these trends. With the sweeping bail reform that took effect in January 2020, New York has become a test case in the movement for justice reform and racial equity. The reforms prohibited the setting of monetary bail for defendants charged with most misdemeanors and certain nonviolent felonies. They further required that judges provide at least three forms of bail and take into account an individual's ability to pay when setting monetary conditions (Lu et al., 2021). Although push-back from victim's groups, law enforcement, and prosecutors resulted in modifications (the "Amended Reforms") only a few months later in April 2020, they were minimal and the law went into full effect during the coronavirus pandemic. The Data Collaborative for Justice estimates that, had these Amended Reforms been in effect in 2019, 89.4% of defendants would have been released without bail (111,775 cases), as compared to 79.3% (99,166 cases) who actually received non-monetary release conditions in 2019 (Lu et al., 2021). Recent reports state that the original reforms contributed to a 40% reduction in New York City's pretrial jail population in March

2020 but was followed by a spike in bail-setting shortly afterwards (Rempel & Weill, 2021). Preliminary reports just one year after the reforms took effect suggested that judges are requiring bail or remanding defendants to custody less often for all racial and ethnic groups (Rempel & Weill, 2021).

The effects of reforms on racial disparities remains dubious. Although the relative disparity in bail or remand for Black compared to White defendants appeared to decrease slightly from 4% to 2% for bail-eligible, violent felonies, the Black-White gap widened from 12% to 14% (Rempel & Weill, 2021). In 2020, the general trends suggest that Black defendants were more likely to be required to pay cash bail. While it may be premature to draw definite conclusions, little research has been done to assess to what extent New York's 2020 Bail Reforms have reduced, and will continue to reduce, racial disparities in pretrial outcomes.

This study builds upon existing research of racial and ethnic disparities in bail and case processing and further investigates the impact of New York's 2020 Bail Reforms on disparities in pretrial outcomes for New York State. This research is informed by the theory of cumulative disadvantage which posits that disadvantages faced by Black and Latino defendants accumulate across the case processing timeline from arrest to final sentencing. Although this study is limited to the pretrial case processing stage, the potential downstream implications of observed inequality on subsequent sentencing are implicit and show why studying the earliest stages of criminal procedure is so important. Data have been collected for four racial and ethnic groups: White Non Hispanic, Black Non Hispanic, Hispanic, and "other race" defendants. The 2019 pretrial arraignment data is used to define a baseline of the magnitude of disparities observable in pretrial conditions for each racial-ethnic group prior to New York's 2020 Bail Reforms. Then, using 2020 to 2021 data sourced from the Office of Court Administration Pretrial Release

Datasets, this study examines whether racial and ethnic disparities narrowed after the implementation of the new law. The following hypotheses are tested: 1.) The Bail Reforms will reduce the proportion of defendants receiving monetary bail conditions and pretrial detention, 2.) The Bail Reforms will lessen racial and ethnic disparities in pretrial outcomes, controlling for other legal, regional, and economic variables, and 3.) In cases where bail is set, mean bail amounts will be higher for Black and Latino defendants as compared to White defendants.

While this study is not strictly longitudinal, it is valuable because very little research has been done to assess the extent to which New York's 2020 Bail Reforms have met objectives of reducing racial and ethnic disparities in pretrial outcomes. There is a wealth of literature that reviews the influence of pretrial conditions on disparities and makes theoretical prognoses of what bail reforms could accomplish. However, few studies investigate whether laws and reforms on the books, such as New York's, actually promote greater racial equity. In New York, a few reports on the bail reforms have made predictive estimates, observed general trends, and compiled aggregate numbers to measure racial disparities (Hahn, 2016; Lu et al., 2021; Rempel & Weill, 2021). The most recent reports have provided important descriptive analyses of bail and pretrial release outcomes at arraignment in 2019 (pre-reform) and 2020 (post-reform) across New York State (Lu et al., 2022). Yet despite these important investigations, no studies to-date have conducted a thorough assessment of their effect on racial and ethnic disparities while controlling for relevant legal and economic factors of defendants. Granted, there are significant limitations to the conclusions that can be reached. Not only does it take time to see impact after new laws are enacted, but the NYS bail reforms notably came into effect during a time of significant change — including the global Covid-19 pandemic as well as widespread local and national protests for racial justice and policing reform. To this extent, findings must be

interpreted in light of these contexts and more time should be allowed to elapse before definite conclusions can be drawn. Nevertheless, this study aims to further our knowledge on the intended versus achieved impact of bail policies, as well as guide policymakers towards better informed, evidence-based modifications when discrepancies arise.

Overview of New York State Bail Law and Reforms

On paper, New York has a history of upholding relatively novel bail laws. In 1971, legislators amended the century-old NYS Criminal Penal Law (CPL), instituting a variety of reforms including youthful offender statuses, 72 hour holding restrictions, and notably greater latitude for judges to choose among an array of options for posting bail (Fosburg, 1971; CPL § 510.30). Eight varieties of bail were allowed, but judges were not required to grant all options (NYU Law, 2017). After the Federal Bail Reform Act of 1984, nearly all states moved to pass laws permitting judges to consider dangerousness or risk of reoffending in bail decisions, yet New Jersey and New York left their bail statutes intact (Kazemian et al., 2013). Despite comparatively reformist statutes, much of these innovative aspects of NYS bail law were subverted by judicial discretion, bail reconsideration and revocation clauses, and “preventative measures” that allowed for the preemptive detention of defendants in practice (NYU Law, 2017).

The movement for pretrial reform has grown since 2011, spurred on by the larger nationwide movement for criminal justice reform (Smith, 2018). Reforms have gained speed in states such as California and New Jersey as well as major locales including Cook County, Illinois, Harris County, Texas, Washington D.C., and Philadelphia (Vera Institute of Justice, 2019). Harris County’s landmark proposal, Rule 9.1, became one of the most significant reforms. Prior to this legislation, the county had one of the highest rates of pretrial detention with 53% of misdemeanor defendants detained due to an inability to post bail or bond (Mayson, 2020). Some

reforms have since made significant changes: requiring the mandatory release of nearly 85% of defendants arrested on misdemeanor charges, compelling judges to consider a defendant's ability to pay bail, and providing social services at bail hearings (Vera Institute of Justice, 2019). Some regions have experienced moderate successes. Cook County credited reforms for a 15% drop in the jail population and an overall decline in violent crime, and Washington D.C., which eliminated cash bail in 1992, reported that 88% of defendants released pretrial without cash bail showed up for all of their court dates (Lockwood & Griffin, 2020; Vera Institute of Justice, 2019).

Yet while some endeavors had successes, bail reforms implemented in other states had inadvertent consequences. California, for example, took a radical step and eliminated money bail in its entirety under Senate Bill 10. However, the elimination of unaffordable bail led to a loophole wherein judges were granted unfettered discretion to indefinitely detain people pretrial (Vera Institute of Justice, 2019). Similarly, although New Jersey's 2017 bail reforms achieved the intended objective of reducing the number of individuals incarcerated pretrial, it also subjected 36% defendants to onerous non-monetary conditions with racial disparities remaining just as pronounced (Vera Institute of Justice, 2019). Despite an overall reduction in defendants being detained pretrial, disparities were more pronounced in jail populations. The percentage of Black defendants in the New Jersey jail population widened from 54% in 2012 to 59.6% in 2020, while shrinking from 28% to 23.3% for White defendants (Grant, 2020). Such findings hint at the need for more in-depth analysis into the overrepresentation of Black and Hispanic males in the criminal justice system as a whole (Grant, 2020).

New York sought to mirror the successes and evade the pitfalls of its predecessors. The new law notably eliminates money bail and pretrial detention for most cases. Although some

exceptions are applicable, nearly all misdemeanors and nonviolent felonies are no longer money bail eligible (Rempel & Rodriguez, 2019). Bail decisions can have one of four outcomes: release on own recognizance (ROR), release under non-monetary conditions, release with monetary conditions (bail), or remand to custody. Unlike bail reforms in other states which require the courts to consider a presumption of pretrial release, but impose monetary conditions if warranted, NYS law mandates that most defendants be released on their own recognizance (ROR) unless they pose a risk of flight (Rahman, 2019b). The law directs judges to impose the least restrictive means to ensure a defendant's return to court, even for those defendants for whom monetary bail may be required. In cases where monetary conditions are warranted, judges must explicitly weigh the defendant's financial resources (Rempel & Rodriguez, 2019). The reforms drew upon extant bail laws, enforcing procedures which had been formerly underutilized. For instance, existing criminal penal laws only provided the option of eight forms of bail, while the new law expressly requires that judges can choose from among at least three forms of bail, including two of the least onerous forms of bail: a partially secured or unsecured bond, in making monetary bail orders (Rempel & Rodriguez, 2019). New law further employs the use of the decades-old desk appearance tickets (DATs) statute to redirect very low-level offenses from passing through arraignments, thus reducing caseload. Law enforcement is now required to issue a DAT for any misdemeanor or class E felony arrest, as opposed to being given discretion to ignore the statute, as was former practice (Rahman, 2019b).

NYS 2020 Bail Reforms are aimed at reducing the number of individuals caught up in the system simply because they cannot not afford bail. Bail is a decision with significant legal and life consequences. As former public defender and researcher, Insha Rahman notes, “When people are released, they are able to keep their jobs, go to school, be at home with their children

and families, and help prepare their defense” (2019a). Nationally, nine out of ten defendants are detained because they cannot afford bail (Bonta, 2018). Pretrial detainees are shown to plead guilty 2.86 times faster than released defendants (Bonta, 2018; Petersen, 2019). Studies routinely find a persistent link between pretrial detention and the likelihood of incarceratory outcomes (Kutateladze et al., 2014). It is evident that pretrial decisions impact individuals throughout the stages of case processing; recent estimates conclude that the pretrial conditions account for nearly 30% of the disparity in incarceration and about 25% of the disparity in average incarceration sentence length (Donnelly & MacDonald, 2018). Even a couple days in jail can have a ripple effect, causing people to lose jobs, housing, or custody of their children (Merkl, 2020). When defendants have the ability to defend their cases from their places in their communities rather than incarcerated, they have the opportunity to properly investigate and consult with their attorneys about what to do (Rahman, 2019a). The removal of cash-only bail, reducing the number of bail-eligible offenses, and providing alternative non-monetary conditions are some provisions that reforms have adopted to prevent individuals yet to be convicted from languishing in jail while awaiting trial.

Racial and Ethnic Disparities in Pretrial Decisions

Centered in the reform debate is a growing body of evidence that pretrial decisions significantly disadvantage Black and Latino defendants (Demuth, 2003; Donnelly & MacDonald, 2018; Kutateladze et al. 2014; Omori & Petersen, 2020; Schlesinger, 2005; Sutton, 2013). Earlier studies on racial and ethnic disparities in the 80s and 90s often measured pretrial incarceration as an independent variable, as opposed to a dependent variable, thus limiting findings to pretrial outcome as opposed to the legal decisions that influenced said outcome (Schlesinger, 2005). These studies often failed to disaggregate the effects of discrimination from those of

socioeconomic status, neglecting the consideration that racial and ethnic differences may be attributable to lack of economic resources (Schlesinger, 2007). Researchers have since refined study methodology, making it clear that even when relevant background information of White, Black, and Hispanic defendants is considered, White defendants still receive more favorable bail decisions (Arnold et al., 2018; Demuth 2003; Donnelly & MacDonald, 2018; Kutateladze et al. 2014; Omori & Petersen, 2020; Schlesinger, 2005; Schlesinger, 2007; Stolzenberg et al., 2013; Sutton, 2013; Wooldredge, 2012). One important study by Demuth investigated formally charged felony defendants in the nation's 75 most populous counties, finding that group differences in pretrial release resulted from discrepancies in the amount of bail and the ability to make bail (2003). He concluded that pretrial conditions amounted to a form of de-facto discrimination as Latino and Black defendants are more likely to be held on bail because of an inability to post bail, contributing to a greater rate of pretrial detention (Demuth, 2003). Demuth observed that Latinos were particularly disadvantaged in the decision to set monetary bail, the average bail set, and the ability to pay bail (2003). Fellow scholar Schlesinger commended Demuth's study for its thoroughness but critiqued the conclusions, noting that the study design only analyzed aggregate samples on a release/detained dichotomy and failed to control for socioeconomic status, potentially contributing to a distortion of Black and Latino disparities (2005).

Schlesinger remedied these shortcomings in her landmark 2007 study which investigated how disparities in punishment outcomes were produced through disadvantages that accumulated throughout successive stages of criminal processing. The study utilized eight dependent variables in a four-stage process. First, Schlesinger considered three decisions that affect pretrial incarceration: release under non-monetary conditions, release with monetary conditions (bail), or

remand (2007). Second, she analyzed outcomes: whether defendants were able to post bail or were detained pretrial (Schlesinger, 2007). The third stage evaluated adjudications and whether a case was adjudicated at the felony level (Schlesinger, 2007). The final stage included two sentencing decisions: sentenced to incarceration and sentence length (Schlesinger, 2007). By disassembling decisions into these various parts, Schlesinger was able to conclude that racial disparities in the pretrial stage were responsible for significant inequalities in consequent sentencing and incarceration (2007). When pretrial detention is controlled for, Black defendants have odds of being adjudicated as felons that are 45% higher than White defendants, and Latino offenders have odds that are 34% higher than Whites (Schlesinger, 2007).

Subsequent research by Sutton (2013), Stolzenberg et al. (2013), Kutateladze et al. (2014), Donnelly & MacDonald (2018), and Omori & Petersen (2020) adopted the central aspects of Schlesinger's study design, yielding largely similar results albeit with some points of contention. In his 2013 study of felony defendants, Sutton concluded that the main effects of race and ethnicity were strongest in the decision to detain. Estimates showed that Black defendants, relative to White defendants, were about 32% more likely to end up in prison through pretrial detention, as were Latinos who were 42% more likely (Sutton, 2013). Stolzenberg et al., by contrast, found little evidence of a strong race effect on financial release decisions, but did note that Black defendants were more likely to be incarcerated and receive a longer sentence than similarly situated White defendants (2013). They cautioned, however, that it would be misguided to overlook the significance of race, citing that the study had a limited number of control variables and lacked the income level of defendants (Stolzenberg et al., 2013).

Kutateladze et al. sought to refine and build upon these works in their seminal 2014 study on cumulative disadvantage. Researchers extended Sutton's study, incorporating charging and plea

bargaining decisions, a broader sample of criminal cases, examining additional outcomes for Asian defendants, and including proxies for social class (Kutateladze et al., 2014). Using data collected from the New York District Attorney's Office, Kutateladze et al. tracked the outcomes of 159,206 misdemeanors and 26,069 felonies during the years 2010–2011 (Kutateladze et al., 2014). Overall, the findings from their multivariate logistic regressions showed strong evidence for racial and ethnic disparity in pretrial detention, plea offers, and the use of incarceration (Kutateladze et al., 2014). Black and Latino defendants were significantly disadvantaged, even though they unexpectedly had a higher rate of case dismissal than White defendants (Kutateladze et al., 2014). Kutateladze et al. reinforced Sutton and Schlesinger's findings, concluding that pretrial detention had a strong and significant effect on the probability of a custodial plea offer and the likelihood of incarceration — suggesting that race and ethnicity directly impact pretrial detention, custodial sentence plea offers, and sentence type (Kutateladze et al., 2014).

Successive research by Donnelly & MacDonald (2018) and Omori & Petersen (2020) expanded upon these conclusions. According to Donnelly and MacDonald, bail and pretrial detention contributed to 30% to 47% of the explained Black-White disparity in incarceration and sentence length (2018). Cash-only bail consistently explained a meaningful share of Black-White disparities (10–13%) in conviction, pleas, and sentencing pretrial conditions (Donnelly & MacDonald, 2018). Omori and Petersen's study of felony court data from Miami-Dade was even more comprehensive because they studied four different groups: White non-Latinos, Black non-Latinos, and White Latinos, and Black Latinos (2020). Like others, they observed that the inequalities for White non-Latino/Black non-Latino and White non-Latino/Black Latino due to pretrial detention were much higher than the modals had originally predicted (Omori & Petersen, 2020). The White non-Latinos/Black non-Latino disparity in conviction was slightly less than

8% and the White non-Latinos/Black Latinos disparity in conviction was more than 13% (Omori & Petersen, 2020). Further breakdown of these results suggested that 12-13% of this conviction disparity is attributable to pretrial detention (Omori & Petersen, 2020). Although some variation in pretrial detention could be explained by criminal history and charging characteristics, demographics explained 30% of the White non-Latino/Black Latino disparity and 40% of the White non-Latino/Black non-Latino disparity (Omori & Petersen, 2020). This led Omori and Petersen to suggest that the compounding factor of economic marginalization embeds inequality into the pretrial detention decision (Omori & Petersen, 2020).

The overwhelming majority of literature confirms that Black defendants are systematically and disproportionately disadvantaged by pretrial decisions. Approximately 38% of Black individuals compared to 33% of White individuals are detained before trial (Donnelly & MacDonald, 2018). Relatedly, pretrial detention also indirectly raises the odds for Black defendants by lowering the rate of plea bargains (Sutton, 2013). While studies by Wooldredge failed to find evidence of a direct race effect on pretrial release decisions, interaction effects exposed amplified disparities where youth and race intersected (2012). Much of the racial disparities in sentencing for young, Black males were largely a byproduct of higher bond amounts set pretrial (Wooldredge, 2012). When bail is set, Black defendants are more likely to receive cash-only bail than White defendants, cash bail being prevalent in 14.8% of Black defendant cases compared to 11.4% for their White counterparts (Donnelly & MacDonald, 2018). In particular, Black defendants with a severe prior criminal record receive harsher sanctions when determining bail amount (Stolzenberg et al., 2013). The literature soundly asserts that pretrial decisions are a substantial driver of disparities for Black defendants, with some

researchers suggesting that inequalities between racial groups are stronger than that of ethnicity (Omori & Petersen, 2020).

While there are admittedly fewer studies on Latino defendants, other researchers contend that Latinos defendants receive even harsher bail decisions than Black defendants (Demuth, 2003; Omori & Petersen, 2020; Schlesinger, 2005; Sutton, 2013). Demuth's 2003 study, which was one of the first to investigate pretrial disparities for Latinos, noted that both Black and Latino defendants were not only less likely to receive favorable release decisions, but also that Latino defendants faced a triple disadvantage in that they most frequently had monetary conditions set, were the most likely to receive higher bail, and were the least likely to be able to afford bail. Schlesinger echoed these findings, revealing that Latinos received the highest mean bails, approximately \$25,000 higher than either Black or White defendants (2005). Other research such as that by Stolzenberg et al. had mixed results, observing little evidence that Latinos faced more severe punishment than non-Latinos (2013). The interplay between race and ethnicity can be difficult to accurately measure due to the reductive nature of U.S. categorizations. As it stands now, many racial and ethnic nuances are not fully encapsulated in race/ethnicity questionnaires used by law enforcement. It is important to note that many Hispanic defendants do not identify as "white;" however, they are noted as white for lack of a more comprehensive category (Demuth, 2003). Moreover, very few studies compare the punishments facing White and Black Latinos. Indeed, only Omori and Petersen's study explicitly delineated these groups, finding disparities to be the greatest between White non-Latino defendants and Black Latino defendants with Black Latinos having the highest predicted chances of pretrial detention, conviction, and incarceration (2020). Interestingly, disparities between White non-Latinos and White Latinos, particularly in pretrial detention, revealed few statistically significant

differences (Omori & Petersen, 2020). Omori and Petersen pointedly note that this may be due in part to the situational context of Miami-Dade, where many Latinos (especially White Latinos) hold powerful positions in local government (2020). In sum, divorcing ethnicity from race is crucial because including Latinos in the White category may minimize the White-Black gap in pretrial outcomes and discount the potential double disadvantage faced by Black Latinos.

Overview of Theoretical Frameworks

There are various theories that attempt to explain racial disparities seen today in sentencing and pretrial decisions. The focal concerns perspective is predominant in the scholarly literature on court decision-making. It holds that when a defendant is brought before court, three main “focal concerns” are weighed: the offender's blameworthiness, community safety, and the practical implications, or social cost, of decisions (Kutateladze et al., 2014; Steffensmeier & Demuth, 2001). Judges are often compelled to make swift decisions during arraignments, despite having limited information on cases and defendants so they cannot assess blameworthiness or predict with any accuracy the social costs of requiring monetary bail from defendants (Schlesinger, 2005; Steffensmeier et al. 1998). Focal concerns theory highlights how, in an attempt to reduce uncertainty, judges may rely not only on the instant offense and prior criminal record but also on attributions linked to the defendant (Schlesinger, 2005). Within this framework, racial disparities in sentencing could be attributed to judges' propensity for linking certain images or attributions to social groups thought to be dangerous and crime prone (Steffensmeier et al. 1998). In pretrial decisions, where information is more incomplete than in sentencing decisions to which focal concerns explanations usually apply, prosecutors and judges may be influenced by defendant characteristics, wherein race, gender, and social class can

become proxies for culpability and dangerousness (Kutateladze et al., 2014; Steffensmeier & Demuth, 2001; Steffensmeier et al. 1998).

Psychological research finds that, when presented with complex issues and limited time, individuals will resort to stereotypes to quickly resolve problems (Assefa, 2018). This concept of implicit bias, or hidden attitudes and stereotypes, is salient when considering how judges formulate bail decisions (Assefa, 2018). As focal concerns theory notes, the nature of on-the-spot decision making of arraignments, coupled with a lack of information, may lead judges to lean on their implicit biases which consequently lead to the over-detention of Black and Latino defendants (Arnold et al., 2018). There is a vast body of theoretical and empirical research demonstrating entrenched stereotypes of Black people as criminal, threatening, or dangerous (Assefa, 2018; Oliver, 2003). A smaller body of evidence suggests that Latinos often evoke similar attributions, with Latino males being associated with crime and fear and often being stereotyped as dangerous foreigners or drug traffickers (Steffensmeier & Demuth, 2001). Scholars speculate that media accounts have perpetuated these stereotypes of young Black men being gang-affiliated, gun-toting, and violent and Latinos as outsiders, immigrants, gang members, and hot-tempered (Kutateladze et al., 2014; Oliver, 2003). An important study by Arnold et al. suggests that judges may rely on these subconscious stereotypes and existing schemas which cause them to inadvertently discriminate as they weigh release decisions (2018). Their findings, which drew from a Becker outcome test, indicated that bias is subtle and that “bail judges make racially biased prediction errors, but are not racially prejudiced per se” (Arnold et al., 2018). In short, court actors operate in contexts where wide discretion, a desire to reduce uncertainty, and the swift pace of proceedings activate racialized stereotypes that result in

unconscious differential treatment between racial and ethnic groups (Assefa, 2018; Omari & Petersen, 2020).

Collectively, studies by various researchers such as Schlesinger (2007), Sutton (2013), Stolzenberg et al. (2013), Kutateladze et al. (2014), Donnelly & MacDonald (2018), and Omori & Petersen (2020) demonstrate that disadvantages faced by minority defendants are cumulative. Cumulative disadvantage descriptions of biased court outcomes postulate that disparities occur at each decision-making point in criminal procedure, beginning with arrest and ending with sentencing, so that initial social advantage or disadvantage leads to further losses or gains in the future (Kutateladze et al., 2014). For instance, racial biases may start with police practices, such as profiling, which in turn leads to a person's arrest. In court, this defendant may be unable to afford bail and is detained. Incarcerated, the individual is unable to consult with their public defender freely and in turn pleads guilty, leading to less favorable sentencing. And once convicted, any subsequent arrest would elicit recidivist enhancements. In this way, each step in the criminal justice process is compounded and leads to further disadvantage. By using additional variables to control for the legal characteristics of each case and defendant, studies in cumulative disadvantage track the progression of cases through the justice system and illustrate how disadvantages accrue. Taken together, this literature suggests that sentencing disparities and the consequent overrepresentation of Black and Latino individuals in the prison population is the product of a series of decisions, all of which are affected by race and ethnicity (Kovera, 2019; O'Brien & Grosso, 2020).

While there are several alternate explanations for court decision-making — including contextual jurisdiction theory, racial threat theory, and causal attribution theory — these frameworks fall short of conclusively explaining racial and ethnic disparities observed in

criminal procedures (Feldmeyer & Ulmer's 2011; Sutton, 2013; Bridges & Steen, 1998). Emerging literature is beginning to conceptualize how structural inequality may be institutionalized in criminal justice organizations, as opposed to focusing on individual discretion and decision-making (Omori & Petersen, 2020). Omori & Petersen illustrate how formal policies and informal practices can create and normalize systemic racial and ethnic disparities (2020). They noted, for instance, that charging practices explain some of the inequality in prison sentences for Black and Latino defendants (2020). This led them to hypothesize that racism does not solely arise from implicit prejudice in case processing, but also organizational practices presumed to be racially neutral (Omori & Petersen, 2020). But, by and large, the majority of studies draw similar conclusions, that decisions made at arraignments, whether to detain, release, or set bail, strongly affect ensuing decisions (Arnold et al., 2018; Demuth, 2003; Donnelly & MacDonald, 2018; Kutateladze et al., 2014; Omori & Petersen, 2020; Schlesinger, 2005; Schlesinger, 2007; Sutton, 2013; Wooldredge, 2012). Therefore, it is crucial to understand bail decisions, which are made at a very early point in criminal procedure yet have repercussions that reverberate throughout each stage of case processing.

Methodology

The purpose of this study is twofold: first, it generally seeks to measure if the bail reforms reduced the number of cases receiving monetary conditions and pretrial detention. The second focus is to understand the impacts of bail reforms on racial and ethnic disparities in pretrial outcomes for White Non Hispanic, Black Non Hispanic, and Hispanic defendants. The following hypotheses are tested: 1.) The Bail Reforms will reduce the proportion of defendants receiving monetary bail conditions and pretrial detention, 2.) The Bail Reforms will lessen racial and ethnic disparities in pretrial outcomes, controlling for other legal, regional, and economic

variables, and 3.) In cases where bail is set, mean bail amounts will be higher for Black and Latino defendants as compared to White defendants.

This study is limited to the pretrial stage of criminal procedure. Contemporary studies of the effect of race and ethnicity on sentencing, however, view racial disparity as a confluence of factors where race as one independent variable is explored while controlling for other independent variables such as gender, prior records, age, etc. (Kansal & Mauer, 2005). This study adopts similar variables as those used in studies by Demuth (2003), Donnelly & MacDonald (2018), Kutateladze et al. (2014), Omori & Petersen (2020), Schlesinger, (2005), Schlesinger (2007), and Sutton (2013). Most designs employed logistic regression methods which allowed researchers to determine pretrial outcomes between defendants if defendants only differed by their race. At arraignment, judges primarily consider the perceived safety risk to the community and the likelihood that the defendant will return to court. Information such as criminal history, employment, and housing stability are used to determine risk and likelihood of flight (Demuth, 2003). Race and ethnicity, therefore, can be considered significantly associated with pretrial outcomes only after other decision-making factors are controlled for.

Using a quantitative study design, state-wide arraignment data from 2019, 2020, and 2021 is analyzed in two different stages to explore what factors contribute to or reduce racial and ethnic disparities in bail setting. General descriptives of the pretrial release data are outlined in the “Data” section to provide a frame of reference and explore whether the reforms overall reduced the number of cases in which judges required monetary bail. The first stage of analysis utilizes a binary logistic regression with the dependent variable of pretrial decision (monetary bail versus release) while controlling for race, ethnicity, age, sex, region, legal case characteristics, prior criminal background, and representation type. The second stage of analysis

dives deeper into bail cases using an ANOVA procedure to compare the mean bail set for each of the three racial-ethnic groups. Results from each post-reform analysis are then compared to the general trends seen during the pre-reform (2019) period to ascertain whether the NYS 2020 Bail Reforms lessened disparities in pretrial outcomes for Black and Latino defendants as compared to White defendants.

Data

The data in this study is sourced from the New York State Unified Court System (UCS) and Division of Criminal Justice Services (DCJS) who compile arraignment data on all cases that pass through each of New York State's criminal courts. New York State is an ideal location for this study as it has a varied criminal caseload, is regionally distinct, and is racially and ethnically diverse, with large populations of Black, White, and Latino defendants (America Counts Staff, 2021). The 2019-2021 pretrial release data is publicly accessible due to new transparency measures implemented in the bail reform laws. The state-wide data spans from January 1, 2019 - December 31, 2021 and includes approximately 668,279 cases. The dataset is already de-identified and designed to be purposefully robust for researchers studying the bail reforms. It encompasses a substantial number of variables including defendant demographics, court information, arrest details, arraignment charges, court appearance tracking, pretrial conditions, sentencing, days in custody, and rearrest information. All applicable cases from the years 2019-2021 are included to provide a more comprehensive view of the total impact of reforms. Including data from two years after reforms took effect in January 2020 should afford more typical values given the irregularities of the year 2020 due to the covid-19 epidemic.

An overview of the data year-by-year suggests that the bail reforms reduced the percentages of defendants receiving monetary bail conditions and pretrial detention. In 2019,

there were a total of 233,474 cases arraigned. Of those cases, 55.8% were released on own recognizance (ROR); 4.8% had non-monetary conditions of release imposed; 22.6% required bail; 2.4% were remanded to custody, and 14.3% were dismissed. The number of cases arraigned in 2020 dropped to 194,748, likely due to the Covid-19 pandemic. Consistent with the first hypothesis, the general descriptive data indicates that the proportion of defendants being released increased post-reforms with 59.7% being ROR-ed, 8.8% released with non-monetary conditions, 13.4% receiving bail, 2.8% remanded, and 15.3% dismissed. The number of cases arraigned in 2021 jumped to 240,056, higher than their 2019 levels, however, the pretrial trends remained largely similar to 2020. That year, 53.5% were granted ROR; 11.1% were granted non-monetary release with conditions required; 14.1% had bail set; 3.3% were remanded, and 18.0% were dismissed. These release decisions are outlined below in Table 1.

Table 1: Release Decisions for 2019, 2020, 2021 Arraignments

	2019		2020		2021	
<i>Total Arraigned</i>	n = 233,474		n = 194,748		n = 240,056	
<i>ROR</i>	127,709	55.8%	114,214	59.7%	124,877	53.5%
<i>Non-Monetary Conditions</i>	11,067	4.8%	16,373	8.8%	25,926	11.1%
<i>Bail</i>	51,584	22.6%	25,556	13.4%	32,958	14.1%
<i>Remanded</i>	5,556	2.4%	53,350	2.8%	7,584	3.3%
<i>Dismissed</i>	32,787	14.3%	29,307	15.3%	41,974	18.0%

Note: Only valid percentages displayed in table. 2.0% were cases missing a release decision in 2019, 1.8% cases missing a release decision in 2020, and 2.8% cases missing a release decision in 2021.

As for the number of individuals being detained due to an inability to post bail, the percentage of individuals who were unable to post bail at arraignment increased from 80.4% in 2019 to 86.1% in 2020 to 84.8% in 2021 (Table 2).

Table 2: 2019, 2020, and 2021 Bail Outcomes

	2019		2020		2021	
<i>Cases Requiring Monetary Bail</i>	n = 48,054		n = 20,099		n = 25,513	
<i>Bail Posted at Arraignment</i>	9,424	19.6%	2,785	13.9%	3,855	15.2%
<i>Bail Not Posted at Arraignment</i>	38,630	80.4%	17,314	86.1%	21,513	84.8%

Note: \$1 bails excluded as these are placeholders.

This may be in part to the increase in the average bail set which jumped from approximately \$10,506 in 2019 to \$23,221 in 2020 and again to \$28,200 in 2021 (Table 3). The median bails also increased pre and post reform from \$2,500 in 2019, to \$7,500 in 2020, to \$10,000 in 2021.

Table 3: 2019, 2020, and 2021 Bail Amounts

	2019	2020	2021
<i>M</i>	10,506.45	23,221.40	28,200.41
<i>Mdn</i>	2,500.00	7,500.00	10,000.00
<i>SD</i>	31,771.45	54,985.29	60,527.07

Note: \$1 bails excluded as these are placeholders and \$1,000,000 outliers removed.

This rising bail is likely a product of reforms prohibiting monetary conditions for most misdemeanors and nonviolent felonies, leading bail to be set for more serious charges at higher amounts. Nevertheless, although the percentage of individuals unable to post bail increased, the reforms served their purpose in reducing the proportion of individuals being caught up in the system due to having bail set.

The data were narrowed down to more appropriately address the latter hypotheses pertaining to racial disparities. The first binary logistic regression focuses explicitly on

defendants who were released, either on their own recognizance (ROR) or with non-monetary conditions, or had money bail set. Dismissed and remanded cases are filtered out of the dataset for this purpose. Furthermore, due to the expansiveness and diversity of cases, this logistic regression was restricted to felony offenses so as to focus on the type of cases that raise public safety as well as disparity concerns, which also generated a better model fit. The reasons for this decision are further explained in the *Analytic Strategy* section. The second stage of inquiry hones in only on cases in which monetary bail was ordered for White Non Hispanic, Black Non Hispanic, Hispanic defendants, and “other race” defendants therefore cases that had ROR, non-monetary conditions, remand, or dismissals were excluded from this portion of analysis.

Variables and Measurements

For the principal binary logistic regression in the first stage of analysis, *pretrial decision* is the dependent variable that is measured while controlling for demographic, case level, regional, and economic factors. Pretrial decision is a binary variable broken down into money bail or release. “Release” encompasses cases that were both released on own recognizance (ROR) or released with non-monetary conditions such as pretrial supervision or GPS monitoring. These variables are reflected in the table below labeled Table 4.

The primary independent variable is “race and ethnicity” and how it influences pretrial outcomes under the new bail law. For this study, *race-ethnicity* is a categorical variable broken down into four subsets: White Non Hispanic, Black Non Hispanic, Hispanic, and Other. The “other” category includes Asian/ Pacific Islander, Native American, and other races. This grouping is less than ideal; however, there may be some possible data entry errors as there were 23,131 Asian defendants in 2019 but only 914 Asian defendants in 2020 and 2021 combined. Thus, because the n from each of these races was marginal, they were combined for the purpose

of this study. Although the racial-ethnic groupings modeled in the Omori and Petersen 2020 study provide greater nuances by separating the Hispanic population into both Black Hispanic and White Hispanic, this current study is more limited, because 14.3% of the felony defendants in the total database were listed as “unknown” for race, and 13.1% were classified as “unknown” for ethnicity in 2020-2021. Comparatively, only 0.8% of felony defendants had an unknown race in 2019 and all had their ethnicity listed. It is also important to note that the racial-ethnic categories in the dataset present some validity concerns, as a defendant’s race is typically recorded by the officers or precinct clerical staff and may vary from self-reported data. This study was restricted to using the broader category of “Hispanic” due to lack of substantial samples detailing the race of Hispanic defendants. Yet it is interesting to note for future research that New York City has the largest share of Afro Latino populations in the United States; of the 2% of Latinos who identify as Black nationally, 28% live in New York City (Logan, 2003; Navarro, 2003). Furthermore, preliminary studies suggest that Black Latinos have a socioeconomic profile more similar to non-Latino Blacks than to other Latinos, and may be exposed to greater disadvantages than the Latino population overall (Logan, 2003; Omori & Petersen, 2020; Steffensmeier & Demuth, 2001). Other than race-ethnicity, demographics of *age* and *sex* are controlled here, with age being a continuous measurement in years and sex being a dichotomous variable for male or female.

Several other variables are utilized to control for the legal characteristics of each case. The first critical legal control variable is *charge severity*. The charge severity control, modeled after the Kutateladze et al. 2014 study, is built to capture the seriousness of the top charge and is limited to class A, B, C, D, E felonies. The seriousness of the top charge is also captured by the *violence indicator*, which is a categorical measure indicating whether the top charge at

arraignment was a violent felony offense (VFO) or a nonviolent felony offense (NVFO). Two further variables, *criminal record* and *pending charges*, are used to control for a defendant's prior criminal background and risk of flight. Criminal record is operationalized into the number of prior convictions for violent felony offenses (VFOs), nonviolent felony offenses (NVFOs), and misdemeanors. Notably, failures to appear are not collected in the state-wide dataset. Of course, a defendant who has failed to appear would not be released upon being arrested for a new crime or being picked up on an outstanding warrant. Defendants that fail to appear are subject to a different set of release considerations and skew the results towards bail being set or remand; thus, the absence of this datapoint contributes to an inaccurate picture of the discretionary decision-making process. The type of pending charges are analyzed here, since they often weigh into a judge's view about a defendant's perceived safety risk or likelihood to return to court. Pending charges are categorically measured by the presence of pending violent felonies (VFOs), nonviolent felony (NVFOs), and misdemeanor offenses.

Although geographic location is not a factor considered in bail decisions, there is evidence from previous studies that Black and Hispanic defendants receive harsher sentences when they account for the smaller share of the population and the more lenient sentences when they make up larger shares of the population (Feldmeyer & Ulmer, 2011). New York City alone composes nearly 50% of the state population and houses a majority of the state's Black and Latino demographics. Cities in upstate New York, such as Buffalo and Rochester, also have urban cores populated almost exclusively by people of color. Therefore, the *region* control variable is conceptualized here as density of population and location. Regions were categorized into four groups — urban core, large fringe metro, small-medium metro, and rural. These classifications are a condensed version of the 2013 National Center for Health Statistics (NCHS)

classification system which has six different groupings. The first group, the urban core, are counties with at least a million people living there and contain at least 250,000 inhabitants of any principal city of the metropolitan statistical area (Ingram & Franco, 2014). The second group, large fringe metro counties, similarly contain populations of 1 million or more and are economically and socially tied to the central urban areas, but do not qualify as urban core (Ingram & Franco, 2014). The third group, classified as small-medium metro counties, are in metropolitan statistical areas but have populations under 1 million. The fourth group, rural counties, include both counties in micropolitan statistical areas and nonmetropolitan areas as delineated by NHCS 2013 classification (Ingram & Franco, 2014). Lastly, *representation type* is utilized as a proxy control for socioeconomic status since theoretically clients with less economic means are less likely to hire a private attorney. Unfortunately, there is no corresponding variable for representation type on the 2019 dataset, so it is added to the analysis for 2020 and 2021 only.

After examining the main effects of race and ethnicity while controlling for legal and extra-legal contexts, the second stage of analysis uses an ANOVA to provide a comparison of the mean bail set for each racial-ethnic group, from the subset of cases in which cash bail was set. In this test, the mean cash bail set in United States dollars (USD) is a continuous, dependent variable and the defendant's racial-ethnic group is the categorical, independent variable. These variables are outlined in Table 5.

In sum, the variables to be analyzed are:

Table 4: Variables Used in Binary Logistic Regression of Pretrial Decision

Variable	Description	Measurement
<i>Dependent Variable</i>		
Pretrial Decision	Binary measure of initial release decision at arraignment.	Release (includes ROR and Non-Monetary Conditions) / Bail
<i>Case Characteristics (Independent Variables/Covariates)</i>		
Race-Ethnicity	Categorical measure broken into four groups.	White Non Hispanic, Black Non Hispanic, Hispanic, Other
Sex	Dichotomous nominal measure	Male / Female
Age at Crime	Continuous measure	Number of years old
Case Severity	Ordinal measurement by felony class.	Class A, B, C, D, E Felony Offenses
Violence Indicator	Nominal measure indicating whether the top charge at arraignment was a violent felony offense (VFO) or a nonviolent felony offense (NVFO).	Violent Felony Offense (VFO) / Nonviolent Felony Offense (NVFO)
Prior Criminal Record	Continuous measure indicating type and number of prior convictions.	Number of Misdemeanor Convictions
		Number of Nonviolent Felony Offense (VFO) Convictions
		Number of Violent Felony Offense (VFO) Convictions
Pending Charges	Nominal measure indicating type and presence of open and pending charges.	Pending Misdemeanor (Yes/No)
		Pending Nonviolent Felony Offense (NVFO) (Yes/No)
		Pending Violent Felony Offense (VFO) (Yes/No)
Region	Nominal measure used to capture differences in bail-	Urban Core (Kings, Bronx, New York, Richmond, Queens, Monroe, Erie)

	setting patterns in four regions of New York State. Classification is based on an abbreviated version of the NCHS 2013 system which has six different regional groupings.	<p>Large Fringe Metro (Dutchess, Livingston, Nassau, Niagara, Ontario, Orange, Orleans, Putnam, Rockland, Suffolk, Wayne, Westchester, Yates)</p> <p>Small-Medium Metro (Albany, Broome, Chemung, Herkimer, Jefferson, Madison, Oneida, Onondaga, Oswego, Rensselaer, Saratoga, Schenectady, Schoharie, Tioga, Tompkins, Ulster, Warren, Washington)</p> <p>Rural (Allegany, Cattaraugus, Cayuga, Chautauqua, Chenango, Clinton, Columbia, Cortland, Delaware, Essex, Franklin, Fulton, Genesee, Greene, Hamilton, Lewis, Montgomery, Otsego, St. Lawrence, Schuyler, Seneca, Steuben, Sullivan, Wyoming)</p>
Representation Type	Nominal measure used as socioeconomic status proxy.	Public Defender or Private Counsel

Table 5: Variables in ANOVA of Mean Bail Amounts

Variable	Description	Measurement
Mean Bail Set (<i>dependent variable</i>)	Mean amount of cash bail set for bail cases.	Amount of cash bail set in USD
Race-Ethnicity (<i>independent variable</i>)	Categorical measure of four groups.	White Non Hispanic, Black Non Hispanic, Hispanic, Other

Analytic Strategy

The main drive of analysis is directed at exploring the extent to which reforms reduced bail and pretrial detention across New York state and whether there were variations in bail outcomes for White, Black, and Latino defendants. Arraignment data from the pre-reform year (2019) is used as a baseline measure to frame changes and patterns seen in the post-reform

period (2020-2021). The first stage of analysis utilizes three binary logistic regressions for each year — 2019, 2020, and 2021 — to discern whether the intervention, the NYS 2020 Bail Reforms, is leading to a reduction in racial and ethnic disparities in bail decisions, while controlling for other variables. A binary logistic regression was selected as the analytic strategy because it predicts the likelihood of a discrete outcome while controlling for a range of variables that may be continuous, ordinal, categorical or mixed.

Because misdemeanor offenses range so widely and are largely bail ineligible, save for approximately five domestic violence or sexual-related misdemeanors, only felony offenses were included in this first logistic regression. In 2019, 13.9% of misdemeanor cases had monetary bail set; this decreased to 5.5% in 2020 and increased slightly to 6% in 2021. There was a more pronounced change in bail-setting for felony offenses, with 22.6% of felonies receiving bail in 2019 as compared to 13.4% in 2020 and 14.1% in 2021. Due to this minimal use of bail-setting for misdemeanors as well as a desire to improve model fit, and because the most strident criticisms of bail reform concern felony cases, misdemeanor offenses were omitted during this stage. Additionally, cases that received \$1 bail were omitted from the model as this bail amount is commonly used as a placeholder rather than a real dollar amount. \$1 bail allows for a defendant to count time served while being held in custody often on a more serious, open charge or when there is a parole hold. Such cases do not really involve new charges upon which a judge will make a bail decision. By removing these cases, the more serious cases are included in this analysis while the lesser cases are omitted, and cases that are dissimilar to new arrests are eliminated.

The second stage of analysis uses an ANOVA to evaluate the mean bail amounts for the three racial-ethnic groups. Bail amounts play a critical role in shaping pretrial outcomes, as

ultimately a defendant's ability to afford bail determines whether they will be released or held in custody to await trial. For this procedure, \$1 bails were also removed, so these outlier amounts will not skew the accurate distribution. There were a few other outliers, including a few bails \$1 million and over, that were omitted because they significantly skewed the data and are possibly data entry errors.

Results

Before delving into the logistic regressions for pretrial release decisions, a descriptive overview of 2019, 2020, and 2021 felony release decisions is presented in Table 6 and a further breakdown of felony release decisions by race is included in Table 7. Following this, descriptive statistics for each variable used in the binary logistic regression are depicted in Table 8 to frame year-to-year comparisons. Then, using the conceptual framework discussed earlier, the statistical analysis examines the effect of race and ethnicity on pretrial release among White Non Hispanic, Black Non Hispanic, Hispanic and Other defendants through a binary logistic regression which factors in other demographic, legal, and regional variables. These results are presented in Tables 9, 10, and 11. Finally, the results of the ANOVA comparison (Table 12) are scrutinized to reveal how pretrial release decisions (bail versus release) and bail amount affect contingent pretrial release outcomes (pretrial detention versus release) for these four racial ethnic groups.

Pretrial Decisions

Taking a look at the dependent variable, bail or release, one can see that release in felony cases increased substantially post-reform. Table 6: Felony Release Decisions for 2019, 2020, 2021 Arraignments, shows that 17.8% more felony defendants were released in 2020 than in 2019 and 15.3% more were released in 2021 as compared to 2019.

Table 6: Felony Release Decisions for 2019, 2020, 2021 Arraignments

	2019		2020		2021	
<i>Release</i>	25,414	47.5%	34,018	65.3%	38,950	62.8%
<i>Bail</i>	28,049	52.5%	18,103	34.7%	23,012	37.2%

Note: Remanded and Dismissed cases not included. Misdemeanor release decisions in Appendix A.

Even though more defendants were released on felonies overall, the extent of this change varied amongst racial-ethnic groups. As seen in Table 7, White Non Hispanic defendants experienced the greatest proportional decrease in bail setting.

Table 7: 2019, 2020, and 2021 Felony Release Decisions by Race

	2019			
	<i>White</i>	<i>Black</i>	<i>Hispanic</i>	<i>Other</i>
<i>Release</i>	5,200 47.4% _a	11,723 45.8% _b	6,947 50.2% _c	1,357 61.2% _d
<i>Bail</i>	5,778 52.6% _a	13,848 54.2% _b	6,882 49.8% _c	861 38.8% _d
	2020			
	<i>White</i>	<i>Black</i>	<i>Hispanic</i>	<i>Other</i>
<i>Release</i>	6,698 74.3% _a	15,371 63.4% _b	8,420 68.9% _c	44 63.8% _d
<i>Bail</i>	2,322 25.7% _a	8,859 36.6% _b	3,794 31.1% _c	25 36.2% _d
	2021			
	<i>White</i>	<i>Black</i>	<i>Hispanic</i>	<i>Other</i>
<i>Release</i>	8,556 73.4% _a	16,579 59.8% _b	9,089 66.0% _c	157 72.4% _d
<i>Bail</i>	3,100 26.6% _a	11,144 40.2% _b	4,681 34.0% _c	60 27.6% _d

Note: Percentages not sharing subscripts differ at $p < .05$ according to Z test of proportion.

Between 2019 and 2021, felony bail for White defendants declined 26.0%, while Black and Hispanic defendants experienced a more conservative drop of 14.0% and 15.8% respectively. Contrary to what literature would predict, the proportion of defendants receiving bail for felony cases appeared fairly evenly dispersed among racial-ethnic groups *prior* to reforms. Rather it is post-reforms that these release decisions varied more substantially. In 2019, 52.6% of White, 54.2% of Black, and 49.8% of Hispanic defendants got bail set on felony cases. In 2020, 25.7% of White, 36.6% of Black, and 31.1% of Hispanic defendants were required to pay monetary bail. And in 2021, these differences grew more pronounced — 26.6% of White, 40.2% of Black, 34.0% of Hispanic defendants got bail. The z test of proportion further affirmed that these percentages of release in 2019, 2020, and 2021 were significant, thus indicating that the proportion of each racial-ethnic group receiving bail was statistically different from one another each year. Even though White defendants had the most substantial decreases in bail setting, Black and Latino defendants still reaped sizable benefits from the bail reforms. Financial bail requirements dropped a lot for all racial and ethnic groups and reduced the number of defendants of color having bail set and being detained pretrial.

Descriptive analysis of variables in Table 8 shows the demographic, legal, and regional characteristics of felon defendants from year to year. Most of the percentages are in keeping with what the literature would infer.

Table 8: 2019, 2020, and 2021 Descriptive Statistics for Dependent and Independent Variables

Variable	2019		2020		2021	
	n = 52,596		n = 45,533		n = 53,366	
<u>Dependent Variable</u>						
<i>Release</i>	25,227	48.0%	30,533	67.1%	34,381	64.1%
<i>Bail</i>	27,369	52.0%	15,000	32.9%	18,985	35.6%
<u>Independent Variables</u>						
<i>White Non Hispanic</i>	10,978	20.9%	9,020	19.8%	11,656	21.8%
<i>Black Non Hispanic</i>	25,571	48.6%	24,230	53.2%	27,723	51.9%
<i>Hispanic</i>	13,829	26.3%	12,214	26.8%	13,770	25.8%
<i>Other</i>	2,218	4.2%	69	0.2%	217	0.4%
<i>Age at Crime (mean)</i>	33.87		32.14		32.94	
<i>Male</i>	43,115	82.0%	38,514	84.6%	45,085	84.5%
<i>Female</i>	9,475	18.0%	7,008	15.4%	8,267	15.5%
<i>Violent Felony Offense (VFO)</i>	17,986	34.2%	20,783	45.6%	24,485	45.9%
<i>Nonviolent Felony Offense (NVFO)</i>	34,610	65.8%	24,750	54.4%	28,881	54.1%
<i>Class A Felony</i>	642	1.2%	588	1.3%	923	1.7%
<i>Class B Felony</i>	9,219	17.5%	8,139	17.9%	9,980	18.7%
<i>Class C Felony</i>	8,114	15.4%	10,236	22.5%	12,345	23.1%
<i>Class D Felony</i>	18,322	34.8%	15,281	33.6%	17,172	32.2%
<i>Class E Felony</i>	16,299	31.0%	11,289	24.8%	12,946	24.3%
<i>Prior VFO (mean)</i>	0.14		0.24		0.24	
<i>Prior NVFO (mean)</i>	0.38		0.51		0.52	
<i>Prior Misdemeanor (mean)</i>	2.00		2.00		1.93	
<i>Pending VFO</i>	3,046	5.8%	4,748	10.5%	5,743	10.8%
<i>No Pending VFO</i>	49,550	94.2%	40,490	89.5%	47,348	89.2%
<i>Pending NVFO</i>	8,489	16.1%	9,100	20.1%	10,799	20.3%
<i>No Pending NVFO</i>	44,107	83.9%	36,138	79.9%	42,292	79.7%
<i>Pending Misdemeanor</i>	10,278	19.5%	10,569	23.4%	12,105	22.8%
<i>No Pending Misdemeanor</i>	42,318	80.5%	34,669	76.6%	40,986	77.2%
<i>Public Defender</i>	-		38,511	84.6%	43,808	82.1%
<i>Private Defender</i>	-		7,022	15.4%	9,558	17.9%
<i>Urban Core</i>	33,869	64.4%	30,311	66.6%	33,568	62.9%
<i>Large Fringe Metro</i>	12,010	22.8%	9,504	20.9%	11,483	21.5%
<i>Small-Medium Metro</i>	4,925	9.4%	4,035	8.9%	5,513	10.3%
<i>Rural</i>	1,792	3.4%	1,683	3.7%	2,802	5.3%

Hispanic and Black defendants continue to be overrepresented across the three years with Black defendants constituting approximately 48-52% of cases, Hispanic defendants comprising about 25-27%, and White defendants hovering around 20-21%. The other category dropped rather sharply from 4% to less than 1% post reform, but this could possibly be due to data entry errors or the effects of the covid-19 epidemic on these populations. The majority of defendants are male, ranging from approximately 82-85% each year with an average age of 33. Most of the cases were class E and D felonies followed by class C and B felonies with Class A felonies comprising the smallest percentage. Case severity had little variation over the three years, the largest change between pre and post reform years was seen for C felonies which increased over 7% between 2019 and 2021. The second largest change was seen in E felonies which decreased over 6% post-reforms. Table 8 shows an 11.7% uptick in the amount of violent felony offenses from 2019 to 2021 which may reflect a general surge in serious, violent crime nationally (Lu et al., 2022). The mean number of prior misdemeanor, nonviolent felony, and violent felony convictions remained about the same year to year; however, there was about a 3-5% increase in the number of pending charges defendants had from 2019 to 2021. The vast majority of defendants, approximately 83%, have a public defender. Regionally each year, approximately 65% of defendants were arraigned in urban core areas, 22% in large fringe metro areas, a little over 9% in small-medium metro counties, and about 4% in upstate counties.

As depicted in the binary logistic regressions seen in Tables 9, 10, and 11, several significant predictors of pretrial release decisions emerge, with legal factors and regional factors being the most consequential.

Table 9: 2019 Pretrial Release Decisions Logistic Regression

Variable	B	SE	Wald	ExpB
<i>Race (White Non Hispanic)</i>				
Black Non Hispanic	-0.07	0.03	6.82	0.93**
Hispanic	-0.17	0.03	30.50	0.84***
Other	-0.24	0.05	18.67	0.79***
<i>Age at Crime</i>	-0.01	0.00	170.87	0.99***
<i>Gender (Female)</i>				
Male	0.78	0.03	836.19	2.18***
<i>Violence Indicator (NVFO)</i>				
Violent Felony Offense (VFO)	1.31	0.03	2243.08	3.73***
<i>Case Severity (Class E Felony)</i>				
Class D Felony	-0.21	0.03	58.04	0.81***
Class C Felony	0.29	0.04	54.97	1.34***
Class B Felony	0.59	0.03	328.63	1.80***
Class A Felony	3.04	0.13	562.55	20.93***
<i>Criminal Record</i>				
Prior VFO	0.49	0.03	236.35	1.63***
Prior NVFO	0.22	0.02	164.49	1.25***
Prior Misdemeanor	0.10	0.01	517.37	1.11***
<i>Pending Charges (No pending VFO, NVFO, or Misdemeanor)</i>				
Pending VFO	0.82	0.05	300.70	2.28***
Pending NVFO	0.54	0.03	335.82	1.72***
Pending Misdemeanor	0.56	0.03	424.60	1.75***
<i>Region (Urban Core)</i>				
Large Fringe Metro	1.40	0.03	2731.09	4.06***
Small-Medium Metro	0.95	0.04	681.96	2.57***
Rural	1.07	0.06	355.09	2.92***
Initial -2LL	68072.21			
Model X ²	11200.70***			
Model -2LL	56871.51			
Nagelkerke R ²	0.27			

Note: * $p < .05$; ** $p < .01$; *** $p < .001$ Reference categories are noted in parentheses

Contrary to the intentions of reformists, the results hint at potentially widening racial disparities for felony offenses. Indeed, the 2019 results conflicted with both the literature and predictions in regards to race and ethnicity. Rather than having a disadvantage, the results suggested that compared with White Non Hispanic defendants, Black Non Hispanic defendants were 7% less likely to have bail set [Wald $X^2(1)=6.82$, $p<.01$]. Hispanic defendants were even less likely to have monetary bail set when compared to White defendants; they had an odds ratio of 0.84 [Wald $X^2(1)=30.50$, $p<.001$] indicating that they had 16% lower odds of a judge requiring them to pay monetary bail. Defendants classified as Other were 21% less likely to get bail, making them the least likely to get bail of all groups [Wald $X^2(1)=18.67$, $p<.001$]. All of these odds were statistically significant.

In the post reform years, these results reversed for Black defendants. In 2020 and 2021, as Tables 10 and 11 show, Black Non Hispanic defendants were significantly more likely to have bail set, as compared to being released, than White Non Hispanic defendants when case level data, criminal background, and socioeconomic status were held constant. The results for Hispanic and other defendants, on the other hand, were not significant in either 2020 or 2021. Final estimates from 2020 indicate that compared with White Non Hispanic defendants, Black Non Hispanic defendants had odds ratios of 1.13 [Wald $X^2(1)=12.24$, $p<.001$], in other words, they were 13% percent more likely to receive bail. This percentage shrank slightly in 2021 with Black Non Hispanics being 11% more likely to have bail set [Wald $X^2(1)=10.87$, $p<.001$]. The impact of race and ethnicity as a predictor of judges' decision to require monetary bail, however, was quite small in comparison to the size and fluctuation seen in other independent variables in their effect on this decision.

Table 10: 2020 Pretrial Release Decisions Logistic Regression

Variable	B	SE	Wald	ExpB
<i>Race (White Non Hispanic)</i>				
Black Non Hispanic	0.12	0.04	12.24	1.13***
Hispanic	-0.06	0.04	2.64	0.94
Other	0.55	0.30	3.38	1.74
<i>Age at Crime</i>	-0.01	0.00	33.40	0.99***
<i>Gender (Female)</i>				
Male	0.99	0.04	682.06	2.72***
<i>Violence Indicator (NVFO)</i>				
Violent Felony Offense (VFO)	2.53	0.04	4824.16	12.55***
<i>Case Severity (Class E Felony)</i>				
Class D Felony	-1.04	0.04	657.98	0.35***
Class C Felony	-0.72	0.05	230.82	0.49***
Class B Felony	-0.09	0.04	4.11	0.92*
Class A Felony	1.30	0.10	173.20	3.66***
<i>Criminal Record</i>				
Prior VFO	0.51	0.02	482.15	1.66***
Prior NVFO	0.11	0.02	57.28	1.12***
Prior Misdemeanor	0.04	0.01	57.42	1.04***
<i>Pending Charges (No pending VFO, NVFO, or Misdemeanor)</i>				
Pending VFO	0.68	0.04	331.02	1.97***
Pending NVFO	0.56	0.03	328.03	1.75***
Pending Misdemeanor	0.44	0.03	225.23	1.55***
<i>Representation (Private Counsel)</i>				
Public Defender	-0.22	0.03	43.16	0.80***
<i>Region (Urban Core)</i>				
Large Fringe Metro	0.43	0.03	180.31	1.54***
Small-Medium Metro	0.51	0.04	137.40	1.68***
Rural	0.45	0.07	43.64	1.57***
Initial -2LL	57391.83			
Model X ²	12374.85***			
Model -2LL	45016.98			
Nagelkerke R ²	0.33			

Note: * $p < .05$; ** $p < .01$; *** $p < .001$ Reference categories are noted in parentheses

Table 11: 2021 Pretrial Release Decisions Logistic Regression

Variable	B	SE	Wald	ExpB
<i>Race (White Non Hispanic)</i>				
Black Non Hispanic	0.11	0.03	10.87	1.11***
Hispanic	-0.04	0.04	0.98	0.97
Other	0.12	0.18	0.46	1.13
<i>Age at Crime</i>	-0.01	0.00	85.01	0.99***
<i>Gender (Female)</i>				
Male	0.95	0.04	759.84	2.59***
<i>Violence Indicator (NVFO)</i>				
Violent Felony Offense (VFO)	2.22	0.03	4871.03	9.17***
<i>Case Severity (Class E Felony)</i>				
Class D Felony	-0.68	0.04	351.61	0.51***
Class C Felony	-0.09	0.04	4.76	0.91*
Class B Felony	0.16	0.04	18.26	1.17***
Class A Felony	2.11	0.08	720.19	8.29***
<i>Criminal Record</i>				
Prior VFO	0.49	0.02	549.33	1.64***
Prior NVFO	0.14	0.01	109.92	1.15***
Prior Misdemeanor	0.05	0.00	103.24	1.05***
<i>Pending Charges (No pending VFO, NVFO, or Misdemeanor)</i>				
Pending VFO	0.74	0.03	468.74	2.09***
Pending NVFO	0.62	0.03	483.56	1.86***
Pending Misdemeanor	0.47	0.03	301.91	1.60***
<i>Representation (Private Counsel)</i>				
Public Defender	-0.20	0.03	47.78	0.82***
<i>Region (Urban Core)</i>				
Large Fringe Metro	0.20	0.03	45.73	1.22***
Small-Medium Metro	0.50	0.04	166.60	1.64***
Rural	0.52	0.06	94.09	1.68***
Initial -2LL	69099.36			
Model X ²	15023.89***			
Model -2LL	54075.48			
Nagelkerke R ²	0.34			

Note: * $p < .05$; ** $p < .01$; *** $p < .001$ Reference categories are noted in parentheses.

The other two demographic variables, gender and age, were significant. Male defendants were overwhelmingly more likely to have bail set compared to female defendants. The odds remained high across pre and post reform years, though they were slightly more elevated after the new bail law went into effect. Male defendants were 118% more likely to have bail required in 2019 as compared to female defendants, 172% more likely in 2020, and 159% more likely in 2021. Age was also a significant predictor with unchanging odds throughout the three years. For every year increase in a defendant's age, it decreased the odds of receiving an order to pay bail by 0.99 or by 1% when other fields were held constant. In other words, the older a defendant, the less likely they were to have bail required.

As for the legal factors of bail, consistent with what one may expect, having a violent felony offense significantly and dramatically increases the odds that a defendant will have a bail set. The odds of a violent felony getting bail became more pronounced between pre and post reform years, possibly driven by changes in the new law which eliminated bail for most nonviolent felonies. With the reforms, judges are given discretion to set bail in almost any case involving a violent felony. In 2019, a violent charge was 273% more likely to receive bail as compared to a nonviolent felony offense. In 2020, the presence of violence increased the odds of bail by 1155% and by 817% in 2021. Similarly, the severity of the charge was also significant. This could be because more serious crimes are subject to greater punishment, providing more incentive for a defendant to flee and more reason for a judge to set bail. It could also be that judges look at charge severity as a consideration for community safety, even though bail is solely meant to ensure a defendant's return to court in New York State. In 2019, the most severe charge, a class A felony, had 20.93 odds of bail being set [Wald $X^2(1)=562.55$, $p<.001$]. Yet unlike the violence indicator variable which increased dramatically post reform, the odds of bail being

required for a class A felony charge decreased to 3.66 [Wald $X^2(1)=173.20$, $p<.001$] in 2020, and then rose again to 8.29 [Wald $X^2(1)=720.19$, $p<.001$] in 2021. For the most part, the odds of having bail set appear to increase as the class severity increases. Class C and D felonies were an exception as their odds of bail were lower compared to E felonies in post-reform years. Such a development is potentially due to reforms mandating release for many nonviolent charges within each class; however, it would be misguided to assume so without further investigation. The case severity measurement is unfortunately imprecise by design, since each felony class encompasses a wide range of charges that are both bail eligible and non bail eligible. This limits the extent to which conclusions can be drawn about the measurement they are meant to capture. Prior and pending charges routinely predicted greater odds of bail from year to year; however, violence stands out as a principal factor in bail decisions — violent charges, prior violent felony convictions, and pending violent felony offenses all drove the odds of bail much higher than most other variables.

As for socioeconomic factors, attorney representation type (a proxy for the defendant's economic status) significantly predicted the odds of bail being required. Although this datapoint was unavailable for 2019, overall, individuals with public counsel, which was approximately 83% of defendants, were significantly *less* likely to have bail set. There was minimal change between years — defendants with public defenders had 20% lower odds of bail in 2020 and 18% lower odds in 2021. This result was rather unexpected as the literature would suggest that hiring a private attorney, which is an indication of greater economic means, would improve a defendant's likelihood of avoiding bail; however, this was not the case according to results.

Interestingly, regional factors played a noticeable and consistently significant role in the likelihood of bail being required. In 2019, defendants arraigned in large fringe metro counties

had 4.06 odds of having bail required, small-medium counties had 2.57 odds, and rural counties had 2.92 odds as compared to urban core counties. The following year, the odds dropped to 1.54 in fringe metro counties, 1.68 in small-medium counties, and 1.57 in rural areas. In 2021 the odds fell further to 1.22 in large fringe metro counties and 1.64 in small-medium counties while rising slightly to 1.68 in rural counties. Before the law passed in 2019, bail practices varied widely among different types of jurisdictions. After it passed, there was less variation in bail practices. These changes hint at reforms having the unexpected but welcome effect of regularizing bail practices geographically and reducing the influence of local court culture. Yet, like case severity, it is difficult to explain exactly what is driving these fluctuations in odds regionally. It is possible that much of the regional variation could be driven by population density as well as court culture; essentially, higher volume of defendants may push court actors towards favoring release over bail. This is particularly pertinent in the context of New York City where Rikers Island faces mounting human rights concerns including overcrowding, understaffing, and growing violence (House Committee on Oversight and Reform, 2021). Some studies also suggest that inclusion of the regional variables also may help account for other influences, such as the arresting behavior of police or community-level differences in informal social capital (Kutateladze et al. 2014). Whether or not this is the case, the addition of regional variables into the logistic regression model quite deeply and surprisingly altered significance and odds of race and ethnicity on bail decisions.

Bail Amounts

As predicted in the second hypothesis, in cases where bail was set, the mean bail amounts were significantly higher for Black and Latino defendants as compared to White defendants. The

three ANOVA analyses in Table 12 illustrate steadily increasing bails for each racial-ethnic group.

Table 12: ANOVA of Cash Bail Amounts (USD) by Racial-Ethnic Group

2019						
	<i>White</i>	<i>Black</i>	<i>Hispanic</i>	<i>Other</i>	<i>F (3, 6579.43)</i>	η^2
<i>M</i>	6,458.62 _a	11,199.91 _b	13,766.46 _c	9,522.03 _b		
<i>SD</i>	19,476.16	31,563.14	41,844.81	26,944.84	155.98***	.01
2020						
	<i>White</i>	<i>Black</i>	<i>Hispanic</i>	<i>Other</i>	<i>F (3, 177.66)</i>	η^2
<i>M</i>	14,546.11 _a	24,329.69 _b	28,806.73 _c	10,293.75 _a		
<i>SD</i>	42,083.76	51,857.93	66,680.50	19,808.54	60.94***	.01
2021						
	<i>White</i>	<i>Black</i>	<i>Hispanic</i>	<i>Other</i>	<i>F (3, 419.34)</i>	η^2
<i>M</i>	16,599.83 _a	29,838.94 _b	35,236.68 _c	17,717.67 _{ab}		
<i>SD</i>	39,042.43	61,208.75	69,738.84	60,242.71	130.95***	.01

Note: Means not sharing subscripts differ at $p < .05$ according to Games-Howell comparison.

* $p < .05$; ** $p < .01$; *** $p < .001$

2019, 2020, and 2021 bail amounts were not normally distributed. 2019 had a skewness of 10.31 and a kurtosis of 156.35. 2020 skewness of 6.28 and a kurtosis of 53.05. And 2021 had with a skewness of 5.41 and a kurtosis of 38.71, however, when a log10 transformation of the data for each year was conducted and used in the ANOVA test, significance and post hoc results were largely the same. Therefore, the un-logged data and results are displayed for ease of interpretation.

Turning towards 2019, the results reveal mean cash bails that differ significantly according to race and ethnicity [$F(3, 6579.43) = 155.98, p < .001$]. The post hoc Games-Howell comparisons showed that the mean cash bail amount set for Hispanic defendants ($M = 13,766.46$,

SD = 41844.81) was significantly different than the amount of cash bail set for White defendants (M = 6,458.62, SD = 19,476.16) and Black defendants (M = 11,199.91, SD = 31,1563.14).

Hispanic defendants had the highest mean bail set, followed by Black defendants. The difference between Black and White defendants' average bails was also statistically significant. Other defendants received the second lowest bails average bails at \$9,522.03 (SD=26,944.84) and this amount was only statistically different from White and Hispanic defendants.

Moving to 2020, one can see that the mean bails more than doubled for each racial-ethnic group [$F(3, 177.66) = 60.94, p < .001$]. Bail amounts continued to be the highest for Hispanic defendants (M = 28,806.73, SD = 66,680.50), followed by Black Non Hispanic defendants (M = 24,329.69, SD = 51,857.93), then White Non Hispanic defendants (M = 14,546.11, SD = 42,083.76). Each of these means differed significantly from one another. At \$10,293.75, other defendants had the lowest overall bails (SD = 19,808.54) which differed significantly from Black and Hispanic defendants but not White defendants.

The year 2021 saw bail amounts rise yet again, though less drastically than in 2020. Again, mean bails significantly differed according to race and ethnicity [$F(3, 419.34) = 130.95, p < .001$] with Hispanic defendants receiving highest bails with a mean bail of \$28,806.73 (SD = 66,680.50), followed by Black Non Hispanic defendants at \$24,329.69 (SD = 51,857.93). Other defendants had an average bail of \$17,717.67 (SD = 60,242.71) and White defendants received the lowest average bails of \$14,546.11 (SD = 42,083.76). Black, Hispanic, and White defendants had bails that were statistically different from one another while Other defendants' average bail was only statistically different from that of Hispanic defendants. It may be the case that Hispanic defendants are receiving higher bails because they constitute the greatest percentage of severe

charges, however, this could only be determined through further analysis such as an ordinary least square regression or tobit analysis that controls for critical case level factors.

The literature suggests and the data affirms that the vast majority of defendants are unable to post bail. As discussed previously in the data section, although the number of defendants getting bail set decreased, the percentage of individuals who were unable to post bail increased nearly 20% between pre and post reform years. In 2019, 21.4% of White defendants, 17.3% of Black defendants, and 20.7% of Hispanic defendants posted bail. In 2020, 13.5% of White defendants, 14.1% of Black defendants, and 14.6% of Hispanic defendants were able to post bail. In 2021 these figures remained largely the same with 13.4% of White defendants, 16.5% of Black defendants, and 15.2% of Hispanic defendants being able to afford bail. Taken together, these percentages highlight that there may be some disparities

Discussion

This study sought to resolve the question of whether New York State's bail reforms reduced the proportion of defendants receiving monetary bail conditions and lessened racial and ethnic disparities in pretrial outcomes. Because the literature painted a picture of a criminal justice system ripe with significant inequalities in bail, pretrial detention, and sentencing for Black and Latino defendants, it was logical to assume that such trends exist in New York as well. It was further plausible to hypothesize that reforms, which expanded release mandates and reinforced affordability in bail setting, could potentially reduce these disparities. Indeed, supporters of the new law stated strongly at the time that this was one of the purposes of passing the new law. At the same time, it was doubtful that changes in the New York State bail law could achieve dramatic reductions in such a short timeframe, because new laws take time to implement and courtroom personnel take time to understand them. The results suggest that two

years post reform, racial-ethnic disparities among various racial and ethnic groups have not abated, even though the proportion of defendants required to pay cash bail has sharply declined overall among all racial and ethnic groups

The pre-reform period findings on pretrial decisions were unanticipated and opposite to predictions. Black and Hispanic defendants unexpectedly had slightly *lower* odds of bail being required when compared to White defendants in 2019. Because the literature so overwhelmingly provides evidence that these two racial-ethnic groups are disadvantaged in bail decisions, there is little to no discourse to draw upon when interpreting this finding. On the other hand, in the two years post-reform, Black defendants became slightly *more* likely to have bail set compared to White defendants while findings for Hispanic and other defendants were not significant. Because Hispanic defendants were not significantly any more or less likely to get bail than White defendants in 2020 and 2021, it is difficult to definitively establish whether the bail reforms generated more equitable pretrial decisions. Despite these inconclusive findings on whether racial and ethnic disparities are improving, one can say with more certainty that disparities are not rapidly diminishing. However, insofar as the new bail law sharply reduced the use of cash bail for all groups, it can be said that the worst effects of jailing defendants pretrial are being lessened across the board, although disparities persist among the fewer defendants still subject to bail orders.

Gender, legal, and regional characteristics proved to be the most influential factors in bail decisions. Even though the severity of the charge was significant in determining whether a defendant got bail, increasing the felony class did not necessarily increase the odds of bail. Rather, it was the presence of violence in convictions, pending charges, and top charges that was strongly associated with increased bail likelihood across all three years. This is precisely what

was intended with the new law — reduce the detention of defendants with lesser, nonviolent cases and reserve the option of bail for more serious, violent offenses. Outside of legal variables, the inclusion of regional variables in the model not only significantly predicted bail decisions when controlling for race-ethnicity, but also altered the significance and odds of racial and ethnic factors when added to the equation. The current study cannot lend a full explanation as to why regional variations had such a striking impact on racial and ethnic disparities; however, there are indications that isolated logistic regression analyses of the four regions yield quite different significance and odds ratios for racial and ethnic groups (see Appendix B). Subsequent research on racial and ethnic disparities may benefit from exploring this relationship further. Nevertheless, even when these demographic, legal, socioeconomic, and regional factors were controlled for, race and ethnicity still played a significant, albeit more marginal, role in bail decisions.

Although the logistic regression results were rather modest in regards to race-ethnicity as a predictor of bail, the ANOVA test clearly demonstrated that, among the defendants on whom judges imposed orders to pay cash bail, Black and Hispanic defendants receive higher average bail amounts year-to-year that are statistically different from White defendants. Whereas Black defendants were most disadvantaged in the decision to set bail in 2020 and 2021, Hispanic defendants received the highest bails. This finding is consistent with current research on bail amounts which has continually found that Hispanic defendants receive significantly higher bails, even after controls for legal and extra-legal variables are employed (Demuth, 2003; Turner & Johnson, 2005). Although such controls were not used in this study, this is an avenue that could be pursued in future investigations since the addition of such controls would further isolate the effects of race-ethnicity on bail amounts. In sum, the ANOVA reveals that when financial bail is

imposed, Black and Hispanic defendants will likely have higher bails. For many, bail will equate to pretrial detention, as upwards of 85% of these defendants cannot afford the price of their freedom.

Taken together, these results bring further questions to the forefront. First, why did Black, Latino and other defendants appear to have more advantageous bail decisions in 2019, while Black defendants received more disadvantageous bail decisions in the post-reform period? It is possible that methodological limitations such as the design of the charge severity variable may have clouded output. Or it could possibly be the case that Black, Latino and Other defendants did, in fact, have more favorable release decisions in 2019. Truthfully, an analysis comparing the three years preceding bail reforms to the three years post reform would be a more rigorous means by which to study the new bail laws effects. Yet even with the logistic regression analysis' mixed results, descriptive analysis plainly showed that the proportion of White, Black Latino and other defendants receiving bail for felony cases differed only by a few percentage points prior to reforms (Table 7). Post-reforms, the percentage of bail decisions varied more substantially with bail setting for White defendants declining much more substantially (by 26%) than it did for either Black (14.0%) or Latino (15.8%). Based on this statistic alone, it would seem that racial and ethnic disparities did not diminish. Rather, the demographics of who is detained and jailed are widening, irrespective of whether discrimination is happening in the pretrial decision-making process.

Herein lies another question: what is producing such stark racial and ethnic disparities in bail numbers and pretrial detention? The answer probably lies beyond the scope of this study because even before reaching the stage in which release decisions are made, there is a clear overrepresentation of Black and Latino defendants being arraigned. The descriptive analysis

shows that Black defendants constitute approximately half of all arraigned defendants in New York State. Such disparities likely begin with the initial decisions of law enforcement agents who make arrests or issue a ticket as well the district attorney's office who accepts or declines to prosecute. Thus, even if bail decisions were perfectly equitable, disparity would persist. While the continuance of racial and ethnic disparities post-reform is not a particularly novel discovery, it is an important one to consider for future policy.

Limitations

Before concluding, it is important to acknowledge certain limitations to this study. Certain variables such as race-ethnicity, socioeconomic status, and specific legal controls could be refined for future research. The findings revealed marginal differences in release decisions and bail amounts for White, Black, Latino, and other categories; however, it is likely that disparities may extend beyond these four categories. Yet due to the restrictive nature of the data, it was difficult to differentiate defendants using more nuanced categories of racial and ethnic identity. The “other” group is especially difficult to interpret since it combines a range of races from Asian to Native American to multiracial. Ideally, there would be a larger sample size for Asian defendants so as to make a separate category. Furthermore, although attorney representation type was utilized as a rough proxy for socioeconomic conditions, this data was missing for 2019. Future studies should seek to incorporate improved measures of defendants’ economic means, such as educational attainment, housing status, employment, or income. Since Black and Hispanic populations have traditionally been economically disadvantaged in comparison to other groups, delineating these variables would further extract the effects of socioeconomic status from race and ethnicity (Creamer, 2020).

Lastly, there are two legal controls to consider critical for future studies. First, failures to appear were not available in the dataset. A defendant's past court appearances are a critical consideration of judges whose bail decisions hinge on the likelihood that a defendant will return to court. This is an essential datapoint that could refine the logistic regression model. Second, the current case severity control, which utilizes the felony class as a marker of charge seriousness, admittedly may not be the best way to capture variation in the data. Because the felony classes are expansive in the range of charges they encompass, severity may be "diluted" by a mix of charges, some of which are bail eligible and some which are mandatory release. Future bail studies could alternatively restructure this variable to focus solely on bail-eligible versus non bail-eligible charges or follow the lead of other studies that categorize cases into person, property, drug, and other offenses (Arnold et al., 2018; Demuth 2003; Kazemian et al., 2012).

Policy Implications & Conclusion

The findings of this study have several implications for policy and future research on race, ethnicity, and bail. First, bail reforms that reduce the use of cash bail and promote release are beneficial to all. The data showed that approximately 20% more defendants are released per year from every racial group. Regardless of whether this release differs for each racial group, the overall number of individuals being detained pretrial is decreasing. The trends in the data suggest that court actors are following the new bail laws as intended, thus as more time elapses further developments may manifest that benefit Black and Latino defendants. Second, although reforms did not rectify racial and ethnic disparities in any meaningful way, reducing the number of people subject to money bail still benefits people of color overall. Laws that frequently subject defendants to money bail disproportionately harm poorer individuals who are unable to make bail. Black and Latino defendants are often particularly disadvantaged and detained pretrial as

they are more likely to cluster towards the lower end of the economic scale (Creamer, 2020; Bonta, 2018). Hence by substantially reducing the number of people subjected to money bail, Black and Latino defendants should theoretically benefit more than White defendants.

Yet what should work in theory often has flaws when put into action. Future policy changes should be cognizant of the points that this study has brought to light, primarily that the demographics of who is detained pretrial is changing. Although the overall numbers of individuals getting bail and being detained are declining, the composition of jail populations is still disproportionately more Black and Latino. Racial disparities in pretrial outcomes cannot be not fully explained by differences in criminal offending and the inability to make bail continues to contribute to disproportionate incarceration. While general bail reforms do have the potential to lower the overall burden of pretrial incarceration on defendants of color, if these results are anything to go by, then reducing inequalities within the system may require more targeted policy decisions.

Appendix A

Descriptive Statistics of Misdemeanors

Table 13: Misdemeanor Release Decisions for 2019, 2020, 2021 Arraignments

	2019		2020		2021	
<i>Release</i>	113,357	82.8%	92,572	92.8%	109,321	91.9%
<i>Bail</i>	23,523	17.2%	7,145	7.2%	9,578	8.1%

Note: Remanded and Dismissed cases not included.

Table 14: 2019, 2020, 2021 Misdemeanor Release Decisions by Race

2019				
	<i>White</i>	<i>Black</i>	<i>Hispanic</i>	<i>Other</i>
<i>Release</i>	28,167 80.8%	46,294 83.8%	31,339 88.1%	6,865 92.1%
<i>Bail</i>	6,712 19.2%	8,965 16.2%	4,239 11.9%	587 7.9%
2020				
	<i>White</i>	<i>Black</i>	<i>Hispanic</i>	<i>Other</i>
<i>Release</i>	17,566 94.8%	30,929 95.8%	20,294 97.2%	184 94.4%
<i>Bail</i>	968 5.2%	1,353 4.2%	575 2.8%	11 5.6%
2021				
	<i>White</i>	<i>Black</i>	<i>Hispanic</i>	<i>Other</i>
<i>Release</i>	20,143 94.8% ^a	37,871 95.7%	25,126 97.3%	562 95.7%
<i>Bail</i>	1,110 5.2% ^a	1,721 4.3% ^b	692 2.7%	25 4.3%

Appendix B

Isolated Regional Logistic Regressions by Year

	2019				2020				2021			
	<i>Urban Core</i>	<i>Large Fringe Metro</i>	<i>Small-Medium Metro</i>	<i>Rural</i>	<i>Urban Core</i>	<i>Large Fringe Metro</i>	<i>Small-Medium Metro</i>	<i>Rural</i>	<i>Urban Core</i>	<i>Large Fringe Metro</i>	<i>Small-Medium Metro</i>	<i>Rural</i>
<i>Black Non Hispanic</i>	0.83***	0.90	1.01	1.04	1.05	1.01	1.407***	1.06	1.049	.978	1.268**	.996
<i>Hispanic</i>	0.70***	1.13*	1.04	1.61*	0.83**	1.07	1.450*	1.70*	.828***	1.283***	1.274*	1.306
<i>Other</i>	0.65***	0.93	1.29	0.52	2.95*	2.38	1.376	1.71	.751	1.171	2.625**	.655
<i>Age at Crime</i>	0.99***	0.99***	0.99**	0.97***	2.78***	2.51***	2.570***	3.25***	2.658***	2.737***	2.274***	2.410***
<i>Male</i>	2.26***	2.11***	2.11***	2.19***	0.99***	1.00	.995	1.00	.988**	.996	.996	.995
<i>VFO</i>	4.60***	2.77***	2.60***	1.91***	11.90***	19.66***	11.002***	9.38***	9.072**	13.488***	7.411***	7.985***
<i>Class D Felony</i>	0.59***	1.01***	1.34***	1.50**	0.30***	0.44***	.433***	0.55**	.445***	.553***	.695***	.495***
<i>Class C Felony</i>	0.97	1.59***	1.80***	1.36	0.46***	0.45***	.487***	0.46**	.825**	.982	1.050	.762
<i>Class B Felony</i>	1.02	7.68***	8.82***	6.34***	0.84**	1.13	.732*	0.78	1.084	1.633***	.977	.893
<i>Class A Felony</i>	17.50***	87.61***	1.61	2.51	3.42***	5.48***	2.183	0.39	10.409***	8.078***	3.237***	2.168*
<i>Prior VFO</i>	1.67***	1.58***	1.99***	1.19	1.69***	1.75***	1.332**	1.52*	1.665***	1.747***	1.421***	1.852***
<i>Prior NVFO</i>	1.25***	1.47***	1.28***	1.03	1.09***	1.28***	1.002	1.19	1.109***	1.375***	1.069	1.243***
<i>Prior Misdemeanor</i>	1.10***	1.14***	1.16***	1.18***	1.04***	1.06***	1.070***	1.03	1.046***	1.072***	1.062***	1.038
<i>Pending VFO</i>	2.42***	1.51**	1.84***	2.38**	1.90***	2.03***	2.761***	2.49***	2.136***	2.117***	2.009***	1.978***
<i>Pending NVFO</i>	1.74***	1.58***	1.69***	2.18***	1.69***	1.69***	1.953***	2.64***	1.771***	2.001***	2.171***	2.239***
<i>Pending Misdemeanor</i>	1.72***	1.88***	1.94***	1.34*	1.48***	1.67***	1.844***	1.73***	1.602***	1.489***	1.714***	1.698***
<i>Public Defender</i>	-	-	-	-	0.68***	0.95	1.132	1.08	.654***	.983	1.195*	1.570**
<i>Initial -2LL</i>	42730.74	14969.64	6646.41	2407.53	38938.54	11390.78	4958.44	1974.81	44775.16	13360.47	6966.91	3417.23
<i>Model X²</i>	6974.60***	15023.89***	1148.36***	366.03***	8204.44***	2929.30***	1021.93***	418.99***	9372.57***	3533.87***	1373.49***	653.60***
<i>Model -2LL</i>	35756.15	2336.06	5498.05	2041.50	30734.10	8461.48	3936.51	1555.82	35402.59	9826.78	5593.43	2763.63
<i>Nagelkerke R²</i>	0.27	0.25	0.28	0.25	0.33	0.38	0.32	0.32	0.33	0.39	0.31	0.30

Note: * $p < .05$; ** $p < .01$; *** $p < .001$

References

- Arnold, D., Dobbie, W., & Yang, C. S. (2018). Racial Bias in Bail Decisions. *The Quarterly Journal of Economics*, 133(4), 1885-1932.
- Assefa, L. S. (2018). Assessing dangerousness amidst racial stereotypes: an analysis of the role of racial bias in bond decisions and ideas for reform. *Journal of Criminal Law and Criminology*, 108(4), 653+.
https://link.gale.com/apps/doc/A581732603/AONE?u=cuny_johnjay&sid=bookmark-AONE&xid=50bc235a
- Bridges, G. S., & Steen, S. (1998). Racial Disparities in Official Assessments of Juvenile Offenders: Attributional Stereotypes as Mediating Mechanisms. *American Sociological Review*, 63(4), 554–570. <https://doi.org/10.2307/2657267>
- Bonta, R. (2018). The California Money Bail Reform Act: Ensuring Pretrial Justice and Public Safety. *UCLA Criminal Justice Law Review*, 2(1).
- Creamer, J. (2020 September 15). Inequalities Persist Despite Decline in Poverty For All Major Race and Hispanic Origin Groups. *U.S. Census Bureau*.
<https://www.census.gov/library/stories/2020/09/poverty-rates-for-blacks-and-hispanics-reached-historic-lows-in-2019.html>
- Demuth, S. (2003). Racial and Ethnic Differences in Pretrial Release Decisions and Outcomes: A Comparison of Hispanic, Black, and White Felony Arrestees. *Criminology (Beverly Hills)*, 41(3), 873–908. <https://doi.org/10.1111/j.1745-9125.2003.tb01007.x>
- Donnelly, E. A. & MacDonald, M. J. (2018). The Downstream Effects of Bail and Pre-Trial Detention on Racial Disparities in Incarceration. *The Journal of Criminal Law & Criminology*, 108(4), 775–814.

Feldmeyer, B., & Ulmer, J. T. (2011). Racial/Ethnic Threat and Federal Sentencing. *Journal of Research in Crime and Delinquency*, 48(2), 238-270.

<https://doi.org/10.1177/0022427810391538>

Fosburgh, L. (1971, September 5). New Criminal Process Law in Effect. *New York Times*.

<https://www.nytimes.com/1971/09/05/archives/new-criminal-process-law-in-effect.html>

Grant, A. G. (2020). *2020 Report to the Governor and the Legislature*. New Jersey Courts.

<https://www.njcourts.gov/sites/default/files/courts/criminal/2020cjannual.pdf>

Hahn, J. (2016). *An Experiment in Bail Reform: Examining the Impact of the Brooklyn Supervised Release Program*. Center for Court Innovation.

https://www.courtinnovation.org/sites/default/files/documents/BK%20SRP_Research%20Report_FINAL.pdf

House Committee on Oversight and Reform. (2021 September 27). *Oversight Committee Requests Briefing on Deteriorating Conditions at Rikers Island* [Press release].

<https://oversight.house.gov/news/press-releases/oversight-committee-requests-briefing-on-deteriorating-conditions-at-rikers>

Ingram, D. D. & Franco, S. J. (2014). 2013 NCHS Urban-Rural Classification Scheme for Counties. Vital and Health Statistics. Series 2. *Data Evaluation and Methods Research*, 166, 1–73.

James, D. J. (2002). *Profile of Jail Inmates, 2002*. Bureau of Justice Statistics.

<https://bjs.ojp.gov/content/pub/pdf/pji02.pdf>

Kansal, T., & Mauer, M. (2005). *Racial disparity in sentencing: a review of the literature*. The Sentencing Project.

Kazemian, L., McCoy, C., & Sacks, M. (2013). Does law matter? An old bail law confronts the New Penology. *Punishment & Society*, 15(1), 43–70.

<https://doi.org/10.1177/1462474512464137>

Koepke, J. L., & Robinson, D. G. (2018). Danger Ahead: Risk Assessment and the Future of Bail Reform. *Washington Law Review*, 93(4), 1725–1807.

Kovera, M. (2019). Racial Disparities in the Criminal Justice System: Prevalence, Causes, and a Search for Solutions. *Journal of Social Issues*, 75(4), 1139–1164.

<https://doi.org/10.1111/josi.12355>

Kutateladze, B., Andiloro, N., Johnson, B., & Spohn, C. (2014). Cumulative Disadvantage: Examining Racial and Ethnic Disparity in Prosecution and Sentencing. *Criminology (Beverly Hills)*, 52(3), 514–551. <https://doi.org/10.1111/1745-9125.12047>

Lockwood, B. & Griffin, A. (2020). *The State of Bail Reform*. The Marshall Project.

<https://www.themarshallproject.org/2020/10/30/the-state-of-bail-reform>

Lu, O., Bond, E., & Chauhan, P. (2021). *Assessing the Potential Impact of 2020 Bail Reforms on 2019 New York City Criminal Court Cases*. Data Collaborative for Justice at John Jay.

https://datacollaborativeforjustice.org/wp-content/uploads/2021/01/2021_01_08_DCJ_2019-Bail-Report.pdf

Lu, O., Bond, E., Chauhan, P., & Rempel, M. (2022). *Bail Reform in Action: Pretrial Release Outcomes in New York State, 2019-2020*. Data Collaborative for Justice at John Jay.

https://datacollaborativeforjustice.org/wp-content/uploads/2022/04/2022_05_03_Bail-Report.pdf

Mayson, S. (2020). Detention by Any Other Name (Fees, Fines & Bail Symposium: Addressing the Destitution Pipeline). *Duke Law Journal*, 69(7), 1643–.

- Merkl, T. (2020, April 16). *New York's Latest Bail Law Changes Explained*. Brennan Center for Justice. <https://www.brennancenter.org/our-work/analysis-opinion/new-yorks-latest-bail-law-changes-explained>
- NYU Law (2017). *Preventive Detention in New York: From Mainstream to Margin and Back*. NYU Law: Center on the Administration of Criminal Law. https://www.law.nyu.edu/sites/default/files/upload_documents/2017-CACL-New-York-State-Bail-Reform-Paper.pdf
- O'Brien, B., & Grosso, C. (2020). Criminal Trials and Reforms Intended to Reduce the Impact of Race: A Review. *Annual Review of Law and Social Science*, 16, 117–130. <https://doi.org/10.1146/annurev-lawsocsci-042020-111040>
- Oliver, M. B. (2003). African American Men as “Criminal and Dangerous”: Implications of Media Portrayals of Crime on the “Criminalization” of African American Men. *Journal of African American Studies*, 7(2), 3–18. <https://doi.org/10.1007/s12111-003-1006-5>
- Omori, M., & Petersen, N. (2020). Institutionalizing inequality in the courts: Decomposing racial and ethnic disparities in detention, conviction, and sentencing. *Criminology (Beverly Hills)*, 58(4), 678–713. <https://doi.org/10.1111/1745-9125.12257>
- Petersen, N. (2020). Do Detainees Plead Guilty Faster? A Survival Analysis of Pretrial Detention and the Timing of Guilty Pleas. *Criminal Justice Policy Review*, 31(7), 1015-1035. <https://doi.org/10.1177/0887403419838020>
- Rahman, I. (2019a). Undoing the Bail Myth: Pretrial Reforms to End Mass Incarceration. *The Fordham Urban Law Journal*, 46(4), 845–875.

- Rahman, I. (2019b). *New York, New York: Highlights of the 2019 Bail Reform Law*. Vera Institute of Justice. <https://www.vera.org/downloads/publications/new-york-new-york-2019-bail-reform-law-highlights.pdf>
- Rempel, M. & Rodriguez, K. (2019). *Bail Reform in New York: Legislative Provisions and Implications for New York City*. Center for Court Innovation. https://www.courtinnovation.org/sites/default/files/media/document/2019/Bail_Reform_NY_full_0.pdf
- Rempel, M. & Weill, J. (2021). *One Year Later: Bail Reform and Judicial Decision-Making in New York City*. Center for Court Innovation. https://www.courtinnovation.org/sites/default/files/media/document/2021/One_Year_Bail_Reform_NYS.pdf
- Sawyer, W. (2019). *How race impacts who is detained pretrial*. Prison Policy Initiative. https://www.prisonpolicy.org/blog/2019/10/09/pretrial_race/
- Schlesinger, T. (2005). Racial and ethnic disparity in pretrial criminal processing. *Justice Quarterly*, 22(2), 170–192. <https://doi.org/10.1080/07418820500088929>
- Schlesinger, T. (2007). The Cumulative Effects of Racial Disparities in Criminal Processing. *Journal of the Institute of Justice and International Studies*, 7, 261–.
- Smith, R. (2018). Condemned to repeat history? Why the last movement for bail reform failed, and how this one can succeed. *Georgetown Journal on Poverty Law & Policy*, 25(3), 451-473.
- Steffensmeier, D., & Demuth, S. (2001). Ethnicity and judges sentencing decisions: Hispanic Black-White comparisons. *Criminology (Beverly Hills)*, 39(1), 145–178. <https://doi.org/10.1111/j.1745-9125.2001.tb00919.x>

- Steffensmeier, D., Ulmer, J., & Kramer, J. (1998). The interaction of race, gender, and age in criminal sentencing: The punishment cost of being young, black, and male. *Criminology*, 36(4), 763–798. <https://doi.org/10.1111/j.1745-9125.1998.tb01265.x>
- Stolzenberg, L., D'Alessio, S. J., & Eitle, D. (2013). Race and Cumulative Discrimination in the Prosecution of Criminal Defendants. *Race and Justice*, 3(4), 275–299. <https://doi.org/10.1177/2153368713500317>
- Sutton, J. (2013). Structural Bias in the Sentencing of Felony Defendants. *Social Science Research*, 42(5), 1207–1221. <https://doi.org/10.1016/j.ssresearch.2013.04.003>
- Turner, K. B., & Johnson, J. B. (2005). A Comparison of Bail Amounts for Hispanics, Whites, and African Americans: A Single County Analysis. *American Journal of Criminal Justice: AJCJ*, 30(1), 35-VIII. doi:<https://doi.org/10.1007/BF02885880>
- America Counts Staff (2021). NEW YORK: 2020 Census. *U.S. Census Bureau*. <https://www.census.gov/library/stories/state-by-state/new-york-population-change-between-census-decade.html>
- U.S. Const. amend. VIII
- Wooldredge, J. (2012). Distinguishing Race Effects on Pre-Trial Release and Sentencing Decisions. *Justice Quarterly*, 29(1), 41–7. <https://doi.org/10.1080/07418825.2011.559480>
- Van Brunt, A., & Bowman, L. E. (2018). Toward a Just Model of Pretrial Release: A History of Bail Reform and a Prescription for What's Next. *The Journal of Criminal Law & Criminology*, 108(4), 701–774.

Vera Institute of Justice (2019). *New York's New Bail Reform Model: The next wave of bail reform goes beyond ending money bail*. Vera Institute of Justice.

<https://www.vera.org/state-of-justice-reform/2019/bail-reform>