Pretrial Detention and Case Processing Measures: A Study of Nine New Mexico Counties

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Section I. Introduction

Pretrial detention has garnered attention throughout the nation. Studies suggest individuals are unnecessarily detained (Green, 2011, Subramanian et al. 2015) and this is certainly a concern in New Mexico. For example, many individuals in Bernalillo County are detained for relatively minor offenses up to the initial court appearance (Steelman, 2009) or beyond (Guerin, 2013; Kalmanoff et al. 2014). Freeman's (2012) length of stay study of select counties reiterates that many misdemeanants are detained for some time in detention facilities throughout the state, with an overall median of 80 days ranging up to a median of 106 days at one facility. The length of detainment impacts more than the detainee. It also drains jail resources that would likely be better spent on those who have been convicted, rather than housing those who have not been convicted for an extended period of time.

There are likely many causes of excessive and unnecessary pretrial detention. Experts suggest that the use of an appropriate risk needs assessment, bail reform, alternatives to detention, and enhanced case processing may all play a role in improving the situation (Came, 2015; Greene, 2011; Kalmanoff et al. 2014; Subramanian et al. 2015). In New Mexico, while the court is statutorily required (Rule 5-401 §C NMRA) to take into account various factors when determining *conditions of release* (e. g., the nature of the crime, character history, potential harm to the community if released, likelihood to appear), they do not administer a standardized risk needs assessment, as is the case in many jurisdictions across the nation (Pretrial Justice Institute, 2014). Some jail inmates may be held only because they cannot afford bail (Pretrial Justice Institute, 2014). Indeed, in their review of Bernalillo County case flow, Steelman et al. (2009) report that one complaint against judges in the metro court is their "propensity to set high bonds" resulting in motions to lower bond (Steelman et al., 2009) and the unnecessary detainment of some individuals. Among those who are released pretrial, Steelman et al. (2009) found high rates of failure to appear.[1] Together, these findings suggest that the lack of a validated RNA is problematic, and possibly results in detention of individuals who do not need to be detained and release of individuals who should not be released.

Importantly, in New Mexico, nearly all defendants are considered bail-eligible, as currently written in the New Mexico Constitution, Article II, §. 13. This article indicates that judges are not allowed to require defendants to post excessive bail and are not allowed to detain individuals except under very specific circumstances (e.g., capital offenses), though clearly judges sometimes do order what would be considered excessive bail. As written, the state constitution does not allow judges to consider factors such as the defendant's flight risk or the danger they pose to the community when making decisions about pretrial detainment. The rule noted in the paragraph above (Rule 5-401 §C NMRA) governs conditions of release, not whether the individual should be released. Currently, there is a proposed constitutional amendment that would reform New Mexico's bail practices. It would allow judges to consider the risk the individual poses to the community and their flight risk when determining whether

[1] Steelman et al. (2009) report that 60-70% of felony cases processed in Bernalillo County involve failure to appear and bench warrants.

bail is allowable. This issue will be brought to New Mexico voters in the upcoming November election. This is an important consideration to ensure appropriate decisions are made regarding who should be released and who should be detained.

Slow court case processing also adds significantly to the problem of pretrial detention. Importantly, rules limiting time to prosecution in district court (Rule 5-604 § B NMRA) were rescinded by the New Mexico Supreme Court in 2011, such that there is currently no state statute governing maximum acceptable time limits between case filing and commencement of trial for felony cases for most of New Mexico. Similarly, Rule 6-802 § C NMRA requiring judges to have a hearing for probation violators within 30 days was overturned in 2013. However, in 2015, in an effort to reduce overcrowding at the Bernalillo Metropolitan Detention Center and increase speedy resolution of cases, the New Mexico Supreme Court enacted Local Rule 2-400. This rule requires that cases go to trial within a specific time frame depending on the factors of the case; it applies only to cases tried in the Second Judicial District (Bernalillo County). There is a rule, however, governing maximum time limits for magistrate courts (Rule 6-506 NMRA). This rule indicates that cases must be heard within 182 days of arraignment (or other dates if there are other considerations, like competency assessments).

New Mexico county detention centers

Like other jails across the country, county detention facilities in New Mexico hold individuals convicted of a crime (serving a sentence of 364 days or less), those arrested for a new crime, and individuals detained for probation/parole violations awaiting judgment and sentencing. Counties are therefore responsible for housing numerous types of inmates. Unlike many other states, though, the population of jail inmates in New Mexico has historically exceeded that of the state prisons (Steelman et al., 2013).[2] County detention facilities struggle with both the cost of housing pretrial detainees and managing the jail population to avoid overcrowding. The decision to order pretrial detention rests with judges. While detention costs and overcrowding are certainly of concern to the judiciary, judges must base their decisions on ensuring both defendants' attendance at court proceedings and community safety. Detention practices and pretrial length of stay are further influenced by factors such as local law culture and statutes, including speedy trial rules and plea practices.

Pretrial detention has been associated with a host of problems for the detainee as well. For example, research suggests individuals detained pretrial tend to have more severe sentences even after other variables such as demographics, offense type, and criminal history are controlled for (LJAF, 2013; Sacks and Ackerman, 2014). Moreover, pretrial detention can have other unintended consequences. For example, low risk offenders may be more likely to re-offend if detained (LJAF, 2013; Lowenkamp, VanNostrand, and Holsinger, 2013).

[2] Recent estimates indicate the jail population has decreased recently, driven largely by declines in jail stays within Bernalillo County (NMSC, 2016).

Pretrial detention process in New Mexico

In New Mexico, everyone who is arrested for a felony offense is booked into a county detention facility, though individuals may also be booked for a less serious crime. Fingerprint and palm print impressions are taken, and a state tracking number is assigned to the prints and booking sheet (NMSA 29-3-8). The detainee may post bail, be eligible for bond, or released on recognizance prior to an initial appearance (Rule 5-401 NMRA). The next step is the initial appearance, where the individual may post bail if not yet released, be released on his/her own recognizance, or continue to be held. At this point, the defendant is apprised of the charges against him, the penalties associated with those charges, and his rights regarding the criminal process (Rule 5-301 NMRA). If the person is detained and was arrested without a warrant, a probable cause hearing is held (Rule 5-301 NMRA) no later than the first appearance. Next is commencement of prosecution, which may occur via an indictment with a grand jury, an information, or preliminary hearing (Rule 5-201 NMRA). Felony cases are then filed in district court and an arraignment is held where the defendant is advised of his/her rights and enters a plea to the charges. Next, the defendant is adjudicated, either through trial by jury or through a plea agreement, though the prosecutor can choose to drop the charges at any point. Finally, the defendant is sentenced if found guilty. The process for individuals arrested for a misdemeanor is similar (flow charts of the process are available through the University of New Mexico's Judicial Education Center at: http://jec.unm.edu/manuals-resources/case-flow-charts).

Assessment of case processing and pretrial detention in New Mexico

There are a total of 13 judicial districts for New Mexico's 33 counties. Currently, all 13 judicial districts in the state are required to report standard annual measures to the legislature (time to disposition from case filing) as set forth in the General Appropriations Act, and provide other information (total adjudicated, pending and convicted cases by offense type and court type) to the Administrative Office of the Courts (AOC) for an annual report. The disposition rates reported by the AOC measure "whether a court is keeping up with incoming cases." As such, the measure is computed by dividing the total number of disposed cases by the sum of new and reopened cases. Thus, pending cases are included in the disposed numbers, but are not included in the denominator. A rate that exceeds 100% indicates that the court is reducing backlogged cases.

The AOC also summarizes the status of pending cases. This includes how many pending cases there are, how long they have been pending (up to six months or more than six months) separated by whether they are inactive due to a bench warrant. In addition, they report the total number of trials held, and disposition by trial type (convicted, acquitted, pled, dismissed, etc.).

Several studies have examined case processing and pretrial detention. However, most of these efforts have been focused on Bernalillo County. Bernalillo County handles the largest number of cases, has had one of the worst overcrowding situations, and has the longest time to disposition in the state. They also have the most resources to study these problems, and therefore have been the subject of several studies examining case flow (e.g., Steelman et al., 2009), juvenile case processing (e.g. Swisstack et al., n.d.), pretrial length of stay and overcrowding (e.g., Guerin, 2013; Kalmanoff, 2013), as well as studies regarding special programs such as DWI-drug court and mental health court. While other counties do

not have the volume of cases that Bernalillo has, they are still impacted by pretrial length of stay and jail crowding. However, beyond the annual data reported to the Legislature and AOC, there is little data available to assess case processing outside of Bernalillo County. While Freeman (2007, 2013) examined length of stay for detainees in select counties, this was based on "snapshot" data and was limited in scope. Further, it does not include an assessment of case processing measures.

Though the current performance measures used by the state are important, they are limited. They do not provide information about pretrial release decision making or whether there is differential case processing based on factors such as individual characteristics or pretrial detention. Moreover, as Steelman et al. (2009, 2013) point out, the utilization of case filing date as the beginning date to calculate time to disposition is flawed, likely resulting in underestimates of actual time to disposition. As noted above, studies have focused primarily on Bernalillo County, leaving out important areas of our state despite the need and desire to understand case processing and length of stay in these areas. This study aims to examine pretrial detention and explore case processing performance measures not currently used in New Mexico.

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We explore case processing statistics and performance measures in Section III. We begin this section with a description of the legal and extralegal characteristics of individuals for whom we found one or more corresponding cases in the court. Next, we examine the time to case filing from two points in time: offense date and booking date. Third, we explore overall rates and time to adjudication. Finally, we describe conviction rates and sentences.

We focus on pretrial detention in Section IV. Here, we examine pretrial detention rates and the amount of time people remain in the detention centers. Next, we describe the characteristics of detainees. Finally, we explore the relative influence of legal and extralegal factors on pretrial detention in multivariate models.

In Section V, we examine pretrial performance. The intent of this analysis is to determine to what extent those released pending the disposition of their cases comply with pretrial demands. We measure two outcomes: failure to appear for court and new arrests.

The last set of analyses focuses on the relationship between pretrial detention and three measures of case processing: adjudication, time to adjudication, and conviction. We present these results in Section VI. Here, we examine the association between pretrial detention and these measures both individually and in conjunction with other variables.

We conclude with Section VII. We summarize the key findings of the study, discuss their implications, and describe the limitations of this study.

Section II. Study purpose and questions

The purpose of the current study is to provide information about pretrial detention and case processing to counties outside of Bernalillo. One aspect of this study is to explore case processing and performance measures that are more robust than those currently used. As noted above, current measures include time to disposition (from date of filing), and the total adjudicated, pending, and convicted cases by offense type and court type. We explore the feasibility of including other measures of case processing and performance measures such as:

- Number of arrests/bookings
- Proportion of individuals whose cases are accepted for prosecution among those admitted for new charges
- Time to case filing
- Adjudication rate
- Length of time to adjudication among detainees
- Conviction rate
- Sentencing rate

Second, this study seeks to further understand the extent of pretrial detention and the factors that are associated with pretrial detention. Thus, we examine:

- Rates of pretrial detention
- Average time detained
- Legal and extralegal factors associated with pretrial detention (whether or not detained) and length of pretrial detention

Third, we wanted to determine whether pretrial decision-making appears to be accurate. When deciding whether to release someone pretrial, the judge must weigh the consequences of detaining someone who has not been convicted against ensuring attendance at court proceedings and community safety. Thus, we calculate:

- Number and proportion of individuals released pretrial who fail to appear
- Number and proportion of individuals released pretrial who have a new offense

Finally, this study explores whether pretrial detention influences case processing and outcomes. Specifically, we examine whether pretrial detention is associated with adjudication, time to adjudication, and conviction. We seek to determine how pretrial detention is associated with case processing times and case outcomes independently, and in conjunction with legal and extralegal factors. The purpose of this portion of the analysis is to explore the following:

- In what ways is pretrial detention associated with case processing times and case outcomes independently and in conjunction with legal and extralegal factors?

Methods

Data sources and access

We used several sources of data for this project. Nine county detention facilities participated in the study: Chaves County, Colfax County, Doña Ana County, Luna County, McKinley County, Otero County, Sandoval County, Santa Fe County and Valencia County. The counties represented here are located throughout the state and include both urban and rural areas. Together, these facilities are estimated to hold nearly 28% of all individuals confined in county detention centers statewide. Doña Ana and Santa Fe hold the third and fourth highest number of detainees in the state. The counties included here represent 8 of the 13 judicial districts in New Mexico. A map indicating the location of the counties and detention centers is available in Appendix A.

Each of the participating counties provided us with an automated dataset capturing all bookings in 2012 and 2013 with the exception of Doña Ana, who provided 2012 data only. We received approval for the project from the University of New Mexico's Institutional Review Board. All counties provided us with the following information: personal identifiers, dates of booking and release, statute violations, demographic information, booking or person number, arresting agency ORI number, and description. We also requested information about bail, reason for detention, and release status. Most counties provided us with booking category (e.g., new charge, warrant, probation/parole violation, other), release status (e.g., pending disposition or not), detainment reason (e.g., held without bail, could not post bail, other), and how released (e.g., bail, with release conditions, recognizance). However, the information contained in these fields varied across detention centers. We received information about the amount of bond ordered from seven counties.

In addition to the automated data from the detention facilities, we utilized information from two other sources. First, we obtained arrest data from The New Mexico Department of Public Safety (DPS), which maintains the state central repository of criminal history data. These data are maintained in DPS' Criminal Justice Information System and are used by DPS to generate criminal history background checks (state rap sheets). The SAC receives quarterly statewide arrest data; these are the same data used to populate an individual's state criminal history record. These data include all hardcopy and electronically submitted fingerprint impressions in New Mexico; all agencies who submit fingerprint cards or impressions are required to provide the same information. Each entry represents a custody change (arrest or incarceration) with one line of data for each offense type associated with a given arrest or incarceration. Besides offense information, the data include personal identifiers and demographics. These data include arrests from 2001 to 2014.

Finally, we received automated data from the Administrative Office of the Courts (AOC). We used these data to track court cases related to bookings through magistrate and district courts (municipal cases were not included). These data include personal identifiers, offense type (all charges for which prosecution against an individual is being sought), court case number, date of case filing, date of disposition, and disposition of each charge. Court data were provided by the Administrative Office of the Courts (AOC) and includes a number of tables. Data extracted from these tables include personal

identifiers, filing date, offense, court case number, charge disposition, and sentence. We supplemented these data by looking up some records in the New Mexico Courts secure records inquiry website.

Procedures

Identified the sample

Each detention center extracted the data from their systems differently. Some detention centers provided the data in a single dataset, while others provided multiple datasets. Our first step was to convert the data from each county into SPSS into a standardized format (i.e., one line of data for each booking). Next, we standardized key variables across each dataset (e.g., recoded each race variable using the same values). We then merged the datasets from each of the counties together.

Some individuals were detained at multiple facilities. Therefore, our next step was to identify each unique individual across all datasets. Since names and other personal identifiers vary somewhat across datasets due to spelling errors, false information, etc., we manually identified each unique individual across all detention centers. Once we completed the process, we created unique numbers for each individual.

We then identified unique stays within facilities. Some counties release individuals and re-book them when they go to court, or are released for other reasons. In some counties, the booking number was different for each re-admission, and in other counties the booking number remained the same. We identified these stays and created admission and release dates that reflect the first booking and final release. This process resulted in a master list of individuals consisting of potential bookings within each county and corrected admission and release dates. We matched this list with the DPS data using personal identifiers (the process is described below).

Sample inclusion and exclusion criteria

Our purpose was to track pretrial detention for those individuals who were booked on a new charge in a state district or magistrate court. Thus, inmates who were booked in order to serve a sentence for a previous charge were excluded, as were those who were detained on federal charges, on a tribal warrant, slated for extradition to another county or state, held for another jurisdiction, or detained for a probation/parole violation only.

In order to limit the files in this way, we used a variety of indicators within the detention center data to determine whether the booking was for a new offense. These indicators varied by facility. Some detention centers clearly defined which bookings involved a new offense. However, many facilities did not have a variable that defined the arrestee's status. For those facilities, we used a combination of variables to determine status. These included release reason, booking charges, booking agency, and booking category. In addition, for those whose booking charges were vague (e.g., warrant), we used DPS arrest data to supplement in those cases where the booking date matched the arrest date (the procedures for matching the booking and arrest data are described below).

Once this was complete, we created a master list of all individuals who were detained for a new offense using the first booking within each county. We then merged this master list with the AOC data to find the corresponding court case using personal identifiers.[3] These included last name and first name (using Soundex matching and then checking the results for accuracy), date of birth, and last four digits of social security number. We matched data in iterations, using various combinations of personal identifiers (ex: all identifiers; last name, date of birth, social security numbers; etc.). We then checked all non-perfect matches and assigned each variable a value reflecting the likelihood that it was a match. We then determined whether the case was a likely match using the results of all four data elements. The likelihood values ranged from a "perfect match" to "definitely not a match." For those in between, we considered those that were very likely (ex: names slightly misspelled, but date of birth and social security number correct) a match. We excluded those that were unlikely matches and those that could have been a match, but we were not confident about. Thus, we were more likely to exclude true matches than to include false matches. We used this process to match booking data and DPS data as well.

Among the person matches made within the court (AOC) data, we then endeavored to find the court case(s) that corresponded with the booking. We included only those court cases processed in the same county as potential matches. In addition, only those cases that logically matched the booking date were considered. For example, we immediately excluded cases disposed prior to the booking date or offense dates that occurred after the booking date. We considered the following as the best match: cases with filing dates that were the same or within a few days of the booking date, and an offense date that was the same or nearly the same as the booking date. For the remaining cases that had bookings that could be matches, we compared offense type and the timing of the disposition date relative to the booking.

We also looked up several hundred cases online through the AOC's secure court records inquiry website. Specifically, we searched those cases that looked like they could be matches, or where the time between booking and filing appeared erroneous even though the offense date matched the booking date. In many of those cases, we found an earlier magistrate court case that had not been found in the first search; in others, it was clear that there should be a magistrate court case, but it was not in the automated files. In that case, we kept the district court case as the correct case but this may skew the number of days between booking and filing for some cases. We also checked the online data to verify the accuracy of matches and better understand cases with unexpected patterns (e.g., booking dates that occurred after filing dates).

We randomly checked some of the felony-level cases for which we did not find a corresponding court case using the secure court website. We found that most really did not have a corresponding court case. However, some did have a corresponding court case. We could not find a matching case for a number of reasons. These include: a match was not made using the personal identifiers; we could not

[3] Although two detention centers provided court case numbers, often these were not in the same format as the court. Thus, we did not use these to merge detention center and court data. However, when available, we did use the court case numbers to manually check that our merges using personal identifiers were accurate.

link the booking with the court case (most often this occurred because the recorded offense date from the court was subsequent to the booking and we could not find definitive evidence that the booking was related to the court case even though it may have been); and we found a corresponding court case in another district (which violates the study bounds). Based on our exploration of the online data, we know that in some cases, the court case exists but it was not in the dataset provided to us. It is unclear why some cases were not included in the data we have, and it is an issue that we will pursue in the future. We estimate that up to 5% of felony level cases not found actually have court case matches.

Sample Description

The sample included individuals who were booked into a participating New Mexico county detention center (jail) between January 1, 2012 and December 31, 2013. While our primary focus was on pretrial detention, this study offers an opportunity to illustrate the volume of individuals who flow through our detention centers each year. Over the two-year period, a total of 80,470 bookings occurred at these facilities.[4] The number of unique individuals, regardless of county, was 48,643. The number of bookings per individual over the two-year period ranges from 1 to 34. Most (68.8%, N=33,487) were booked a single time. The average number of bookings was 1.65 (std. dev. 1.385).

Some individuals were booked at multiple facilities throughout the study period. In some cases, individuals committed crimes in multiple jurisdictions, accounting for their presence in multiple detention centers. Others were booked in one jurisdiction but transferred to a different detention facility until release or case resolution. The number of individuals by county facility is 50,879. Of those, 38,507 were booked for a new offense (as opposed to a probation violation, federal hold, tribal hold, etc.).

For the purposes of this study, we limited the data to the *first booking* for a *new offense* that occurred *within each county*. This resulted in a total of 32,357 first bookings per county for a new offense. While most people were represented in the sample only once, there were up to three bookings per person, all of which were in different counties. Just over one-quarter (25.9%) of the bookings involved one or more felonies. Thus, most bookings involved misdemeanors.

[4] Based on the number of bookings in Doña Ana County in 2012, we project that the total number of bookings for all nine counties for both years would be over 90,000.

Table II.1 Bookings and Eligible Cases

	All cases	
Stage	**N**	**% of total**
Total number of bookings	80,470	100%
Total number of individuals	48,643	100%
All bookings per person per county	50,879	100%
All bookings for a *new offense* per person per county	38,507	75.7%
First booking for a *new offense* per person per county	32,357	63.6%

Data elements

In order to answer the questions posed above along with case processing statistics and performance measures, we created multiple variables. The first set of variables measures key pretrial case processing points. The second capture compliance and performance while on pretrial status. The last set of data includes legal and extralegal variables that may influence pretrial detention and case processing decisions.

Case processing variables

Length of pretrial detention represents the number of days between the date of booking and date of release from the detention center or adjudication of the last case (whichever was first) for each eligible booking during 2012/2013 calendar years. In some cases, the detainee was not yet released and the case was not yet resolved. In those cases, we used an end date of 6/1/16, the date of the last data received from the court. We also created a dichotomous (binary) variable which indicates any ***pretrial detention***. A value of "0" was assigned to individuals booked and released the same day (in other words, who were not detained pretrial) and "1" for those detained one or more days.

The ***time between booking and case filing*** represents the number of days from the booking date to the date the first case was filed. In some cases the individual was booked after filing. This occurred for both district and magistrate court cases. We sampled some of these cases and discovered that individuals were booked as a result of a pre-adjudication warrant. We found no evidence of an arrest or booking for the individual prior to this event, and therefore include them in the study. In other cases, the reason for detention was that the person failed to appear for a court case. When we discovered this, we eliminated those cases.

We also calculated the ***time between offense and case filing***. The offense date was extracted from the court data. Sometimes the offense date listed in the court data was wrong. We found this in some district court cases that had been bound over from magistrate court. In these instances, the date of the offense was related to an event in the magistrate court case (date opened/closed there) rather than the date of the offense. We know that this is the wrong offense date because the documents in the online court query (Odyssey) indicated the cases were related (bound over). When these were discovered, we used the offense date from the magistrate court rather than the district court. In other cases, it was

clear that the offense date was recorded incorrectly based on the date of the case filing (e.g., the offense date recorded in the court occurred after the filing date). In those cases, we omitted the offense date from the analysis.

We created a dichotomous variable which indicates whether a case was ***disposed*** within two years (coded as "1" if yes, and "0" if no) for multivariate analyses. We chose the two year mark for two reasons. First, most cases should be adjudicated within two years. Second, the date of the last eligible booking was 12/31/13. The latest date in the data we received from the court was 12/31/15. Thus, two full years of data would end 12/31/15 for those booked on 12/31/13. We determined whether a case was disposed based on the case status variable in the court. A related measure included in this study is ***time to disposition***. Currently, New Mexico (and many other jurisdictions) uses the date of filing as the beginning point. However, this may underestimate the actual time to disposition. Therefore, for multivariate analyses we calculated the number of days to disposition from the date of booking or the date the case was filed, whichever is earliest, to date of disposition.

Among adjudicated cases, we determined whether the case resulted in **conviction**, coded as "1" if yes and "0" if no. Further, from the court data, we determined the **sentence** type. This was coded as "1" if the sentence included any incarceration time (jail or prison) and "0" if not. Note that in some cases, the incarceration period was suspended. However, since individuals who do not perform well on probation could ultimately be incarcerated due to that original sentence, we distinguished those who had the charge versus those who did not.

Pretrial compliance/performance

In order to assess pretrial compliance/performance, we tracked ***failure to appear*** among individuals who were released pretrial as well as whether they committed a ***new offense*** while released. We constructed the dichotomous/binary failure to appear variable ("0" if they did not fail to appear and "1" if they did fail to appear") from subsequent bookings and/or arrests. While it would be ideal to track this information from the court, we did not receive the entire event history for each case. Thus, we were not able to use court data to determine failure to appear. We determined whether the individual committed a new offense from the arrest data.

Legal and extralegal factors

We expect a number of legal and extralegal variables may be related to pretrial detention, conviction and sentence severity including: demographics, current offense, and prior criminal history. **Demographic** information included *age*, *gender* and *race/ethnicity*. In general, these data were procured from the detention center datasets. In some cases, though, the data were either missing or incomplete (e.g., we received race but not ethnicity). In those instances, we supplemented with the DPS data that matched that booking. Age is rounded to years and is calculated from the booking date. Gender is coded as "1" if male and "0" if female. We combined race and ethnicity into four categories for most of the analyses: White (non-Hispanic), Native American, Hispanic (any race), and other (e.g., Black, Asian, multi-race). It is important to understand that in some cases, the race/ethnicity variable is based on self-reported information; in other cases, it is based on the perceptions of others (e.g., booking

staff). Further, while we used DPS data to supplement when information was missing, for Sandoval and Colfax counties, ethnicity is missing from the DPS data as well.

We received **current offense** data from both the detention centers and the courts (among those court cases found). Generally, the violation data from the detention centers was less complete than the court data. Thus, for most analyses, we used the ***most serious offense*** for which the individual was charged by the court. The most serious offense was coded in the following order: violent, property, drug, DWI, other, and public order. In addition, we created a variable to measure ***offense severity*****.** This was coded as a "1" if the offense involved a felony and "0" if it was a misdemeanor or was not recorded and the case was tried in magistrate court (fewer than 1% were not recorded). We used the same coding scheme when analyzing offense information from the booking data.

Prior criminal history was constructed from the DPS arrest data. We captured the number of ***prior arrests***, number of ***prior felony arrests***, and ***most serious prior offense*** (coded the same way as most serious current offense). This includes any arrests that occurred prior to that associated with the current booking. We also constructed a variable which measured whether there were any ***prior failure to appear*** charges listed in the arrest data.

Analytic approach

Throughout the report we utilize univariate and bivariate descriptive statistics to examine the sample, explore case processing statistics, and to understand the bivariate relationships between key decision points and legal and extralegal variables.[5] We completed multivariate analyses to assess which factors are associated with pretrial detention, adjudication, and conviction while holding the other variables constant. We calculated logistic regression models for dichotomous (binary) dependent variables (e.g., whether or not someone was detained pretrial). The results produce an odds-ratio coefficient for each independent variable. The odds ratio can be interpreted as the multiplicative change in the odds of an event occurring (e.g., detention pretrial). For example, an independent variable measuring gender could be coded as male as the outcome of interest (1) and female as the reference category (0). If the odds ratio were 1.3, this would indicate that an increase of one unit in this independent variable (i.e., being male) is expected to increase the odds of detention by 30%. In other words, males would be 30% more likely or have 1.3 times the odds of females to be detained. Similarly, an odds ratio of 0.7 would indicate that an increase of one unit in that independent variable would decrease the odds of recidivism by 30%; that is, males would be 30% less likely to be detained.

We analyzed each outcome variable of interest with a series of nested models or blocks. By assessing the data in this way, we not only are able to determine whether one or more variables are statistically significant by examining the coefficients produced, but we can also determine whether there is a significant change from one block to another as measured by the change in the -2 Log Likelihoods. This

[5] Univariate analyses examine a single variable; the intent is to describe that variable. Bivariate analyses are used to examine the relationship between two variables. Multivariate analyses are used to examine the relationship between multiple independent variables and a dependent variable.

difference produces a chi-square statistic; the degrees of freedom are equal to the number of variables added in each block. The purpose of analyzing the data in this way is to ensure that any significant differences are detected, as the analysis of the coefficients alone is sometimes incomplete.

We calculated a series of multiple regression models to assess which legal and extralegal factors are associated with time detained pretrial and time to adjudication. We report the standardized (beta) coefficients. Positive values indicate that an increase in the independent variable corresponds with an increase in the dependent variable. Negative values indicate that an increase in the independent variables is associated with a decrease in the dependent variable. Regression diagnostics suggested that there were some violations of assumptions in some models (e.g., heteroscedasticity). Thus, we calculated the models using General Linear Modeling. The results yielded the same interpretation, thus, we opted to present the results from OLS regression as it is more familiar to most people. All analyses were completed using SPSS v. 23 software.

Importantly, there are some limitations to the data. Two counties reported only race, not ethnicity, and not all counties provided information about bond. Thus, when applicable, we calculated models with and without these counties. In some cases, this changed some of the results. We report those differences.

Section III. Case processing statistics and performance measures

One purpose of this study was to explore the feasibility and utility of measuring case processing statistics and performance measures in addition to what is currently recorded by the Administrative Office of the Courts. Each point in the criminal justice system can create a delay that lengthens the overall time to adjudication, and for those detained, the length of time they spend in jail. The unit of analysis for the case processing statistics below is a combination of person and county.

Court cases found

One objective of this study was to assess prosecutorial decision-making by compiling data on the number of cases accepted for prosecution. Although we found a court case for 75% of eligible cases, we found a court case that definitively corresponded to the booking in just over half (55.4%) of the cases. In other words, we were able to confirm that in 55.4% of cases, prosecutors filed charges against the defendant in the same jurisdiction as the booking. However, this varies by offense severity. We found 72% of felony-level cases in the court data, but just 49.5% of misdemeanor cases. This is perhaps not surprising as some offenses may have been seen in a lower court (ex: municipal court) or in another jurisdiction, which are excluded from our study. Indeed, almost half (47.5%) of the misdemeanor cases not found involved a public order offense. These court cases could be heard in a municipal court rather than magistrate or district court. Thus, most cases not found were likely to involve lower level charges. Ultimately, though, we were unable to determine with any certainty the rates of acceptance for prosecution due to the complications with matching court cases with bookings and the study bounds.

Number of court cases and court venue

Among the 17,930 first bookings for a new offense within each county that we found, 24% had more than one case associated with the booking.[6] Some (.003%) involved multiple district court cases, while a greater proportion (10.9%) involved multiple magistrate court cases, but most (89%) included both magistrate and district court cases. This occurred when cases were bound over from the lower court. The distribution of court venue and number of cases found is below.

Table III.1 Bookings Associated with Multiple Court Cases by Court Venue

	N	% with single case	Of multiple cases, % of cases heard in:
District	361	97.2%	<1%
Magistrate	13,758	96.7%	11%
Both	3,811	0%	89%
All	17,930	76.1%	4303

Characteristics of court cases found compared to eligible cases

We examined the demographic, jurisdictional, and offense characteristics of cases found relative to those eligible. Besides providing information that illustrates the differences between cases found and

[6] While we did not look up all of the cases with multiple bookings, we verified that those with many cases were associated with a single booking by checking the information in the AOC's secure Odyssey website.

those eligible, these analyses also provide a description of the sample of cases used for the remainder of the report.[7]

Our sample final differs in some ways from the pool of eligible candidates. Those individuals for whom we found a corresponding court case were slightly older (median age of 32 years compared to 31). Additionally, we found some differences by race and ethnicity. The final sample included fewer Native Americans (17% compared to 22% of eligible cases) and more White non-Hispanics (41% compared to 39%) and Hispanic detainees (38% vs. 35%). As noted previously, two counties did not record ethnicity. Thus, we calculated race and ethnicity without those two counties as well. The proportion of Hispanics increased to nearly 45% and White non-Hispanics decreased to 30% among all detainees with new charges. However, the pattern is the same. That is, we found court cases for a slightly greater proportion of White and Hispanic defendants than Native Americans or those of some other race.

Table III.2 Demographics of Eligible Cases and Those Found in Court

	Detainees with new charges		Detainees found in court	
Age**				
Mean (s.d.)	33.93 (11.58)		34.10 (11.71)	
Median	31.00		32.00	
N	32,320		17,930	
Race***	All counties	Excludes Sandoval and Colfax counties	All counties	Excludes Sandoval and Colfax counties
Native American	22.1%	21.9%	17.3%	17.6%
Hispanic	34.5%	44.5%	37.8%	45.0%
White	39.3%	29.9%	41.2%	33.8%
Other	4.1%	3.7%	3.7%	3.5%
N	32,357	24,745	17,930	14,910
Gender***				
Male	74.0%		75.5%	
Female	26.0%		24.5%	
N	32,357		17,930	

***p≤.001, **p≤.01

The proportion of cases found with an associated court case was not the same as the proportion of cases originating from each of the counties. A noticeably greater proportion of cases found originated in Doña Ana County (15% compared to 10% of eligible cases). A much smaller percentage of cases originated in Sandoval County (14% compared to 21% of eligible cases).

[7] See Appendix B for a description of all detainees and those in the sample.

Table III.3 County of Origin by Eligible Cases and Those Found in Court

County***	Detainees with new charges (N=32,357)	Detainees found in court (N=17,930)
Chaves	10.8%	9.5%
Colfax	2.5%	2.5%
Doña Ana	10.3%	15.3%
Luna	2.8%	3.6%
McKinley	14.7%	15.7%
Otero	5.6%	7.8%
Sandoval	21.0%	14.4%
Santa Fe	19.8%	18.1%
Valencia	12.5%	13.1%

***p≤.001

The current offense differed somewhat as well. Among the cases for which we found an associated court case, the type of offense tended to be more serious. As displayed in the table below, while 22.5% of eligible cases involved a violent offense, 31.1% of cases found involved a violent offense. Further, nearly 34% of cases found involved an offense that was listed as a felony in the booking data, compared to 26% of all eligible cases.

Table III.4 Current Offense by Eligible Cases and Those Found in Court

Current offense ǂ	Detainees with new charges (N=32,357)	Detainees with corresponding court case (N=17,930)
Current offense* **		
Violent	22.5%	31.1%
Property	14.0%	13.3%
Drug	8.5%	9.6%
DWI	19.4%	22.5%
Other	2.1%	1.2%
Public order	24.1%	16.9%
Probation violation only	0.3%	0.0%
Warrant-charge unknown	4.8%	2.6%
Serving sentence	0%	0%
Unknown	4.4%	2.7%
Offense severity* **		
Felony	25.9%	33.7%
Misdemeanor	62.4%	59.2%
Unknown or N/A	11.7%	7.1%

***p≤.001

ǂ Current offense information reported here was gathered from the detention centers and supplemented from arrest data, when available.

Prior criminal history, though, was the same for both eligible cases and those found. Over half (58%) of those in the sample had a history of one or more arrests. The average number of arrests was just slightly higher among eligible cases (4.15) than cases found (4.06), but the median number of offenses

was the same (3.00). Nearly 40% of the sample had one or more prior arrests involving a violent crime. The next most common, most serious prior offense was DWI (about 20%) followed closely by property offenses. Twelve percent of the sample had one or more prior arrests for a failure to appear at a court hearing.

Table III.5 Prior Criminal History by Eligible Cases and Those Found in Court

Prior criminal history	Detainees with new charges	Detainees found in court
Prior arrests		
%	58.5%	58.3%
N	32,357	17,930
Number prior arrests		
Mean (std. dev)	4.15 (4.10)	4.06 (4.02)
Median	3.00	3.00
N	18,936	10,448
MSO priors		
Violent	39.5%	38.8%
Property	18.9%	18.1%
Drug	9.2%	9.9%
DWI	19.8%	20.2%
Other	3.9%	4.0%
Public order	8.6%	8.9%
N	18,936	10,448
Any prior FTA	12.3%	12.3%
N	32,357	17,930

Time to case filing

One factor that can influence the length of pretrial detention is the number of days before a case is filed. Thus, the second case processing measure we examined was time to case filing. Recall that we have included both magistrate and district court cases. Some cases were heard only in magistrate court, some only in district, and some in both. Cases heard in both venues were typically bound over from magistrate court to district court; this occurred in 93% of bookings where there were multiple court cases involving different court venues.

When determining time to case filing, the question arises, what is the appropriate beginning date? One way to measure time to case filing is from the date of the offense. This is a reasonable starting point and reflects rules within New Mexico that define the statute of limitations for filing both misdemeanor and felony level cases. Petty misdemeanors must be filed within one year of the offense, misdemeanors within two years, and up to three years for felonies. There are, however, exceptions to this rule. The clock stops if: the defendant leaves or hides; the complaint is lost, mislaid, or destroyed; the complaint is quashed; or if there is not currently enough evidence to proceed but a new complaint is filed later (New Mexico Administrative Office of the Courts & UNM School of Law Judicial Education Center, 2014).

Time between offense to case filing

The average time between the offense and the case filing date was just over fourteen days; the median number of days was two (see Table III.6 below).[8] We also examined the time between offense date and filing date by the court venue: district only, magistrate only, and those for whom we found cases in both courts. Cases involving the magistrate court, regardless of whether or not they were later bound over to district court, were filed more quickly. The median number of days between the offense and the filing was two days; the mean number of days for magistrate only cases was 7.49 days, and was 23.65 days for those involving both magistrate and district court. Note that the maximum number of days between the offense date and court case filing date varies; this influences the calculated mean number of days. Thus, the median may be more representative of the actual number of days between offense and filing date for most cases.

Since the filing date represents the first case associated with the booking, we also examined the number of days between the offense and filing dates for magistrate court and district court separately for those cases that were bound over to district court. We found the median number of days to the filing in the magistrate court was 2 days, and was 57 days for district court.

The time between the offense and filing dates was longest for those cases involving only a district-level court case. The mean number of days between the most proximate offense date and the earliest filing date was 194.09, with a median of 93 days. It is possible that some of the cases we classified as involving the district court only, did in fact, have an associated magistrate court case we did not find. If this were the case, the time between the offense and initial filing would be shorter. However, the time between the offense and filing dates was shorter for district court cases that were first heard in magistrate court compared to those heard only in district court.

We also examined the data by felony versus misdemeanor cases. The number of days between offense and filing was significantly ($p \leq .001$) longer for felony cases than for misdemeanors: an average of nearly 33 days compared to just four days for misdemeanors. The median number of days, however, was the same for both. This indicates that most cases are filed relatively quickly, but some felony level cases experience long delays that have skewed the average.

[8] We used the offense date recorded by the court. In many bookings involving cases bound over from the magistrate court, the date of the offense listed in the district court was the date that it was bound over rather than the date of the criminal incident. The filing date is the date of the first case if multiple cases were associated with the booking.

Table III.6 Days between Offense Date and First Court Case Filing Date

		Mean (s.d.)	Median	Minimum to maximum	N
Overall	**All cases**	**14.68 (97.34)**	**2.00**	**0 to 4654**	**17,921**
Court venue	**Magistrate only**	**7.49 (60.79)**	**2.00**	**0 to 2608**	**13,752**
	Both district and magistrate cases	**23.65 (135.58)**	**2.00**	**0 to 4654**	**3,808**
	Magistrate	21.19 (143.28)	2.00	0 to 4654	
	District	107.44 (197.03)	57.0	0 to 4707	
	District only	**194.09 (317.79)**	**93.00**	**0 to 3371**	**361**
Degree of offense	**Felony**	**32.68 (157.49)**	**2.00**	**0 to 4654**	**6,543**
	Misdemeanor	**4.25 (17.41)**	**2.00**	**0 to 589**	**11,286**

Timing of booking relative to case filing

Another method to assess whether cases are being filed in a timely manner is to use the date of booking as the beginning point. While bookings most often precede or are on the same date as the case filing date, in 13% of the cases, the case was filed before the individual was booked. As can be seen in Table III.7, nearly 50% of district court only cases were booked after case filing. It is likely that many of those were initiated as a result of a grand jury indictment rather than an initial arrest. Note, though, that this comprises a very small number of the overall sample- just 180 cases. The remaining 2061 cases in which charges were filed before booking occurred were initiated in magistrate court. This occurs when the court issues a pre-adjudication warrant or a warrant for failure to appear when summoned as described in a citation. Among those cases that were heard in magistrate court only, 10% of cases involved individuals booked after the filing date. Among cases that began in magistrate court but were ultimately resolved in district court, 18% of the individuals were booked after the initial filing date.

We also examined timing of the booking by degree of the offense listed in the court. Reiterating the findings above, misdemeanants were more likely to be booked prior to filing than felons. However, both were more likely to be booked prior to or the same day as the case filing date.

Table III.7 Timing of Filing from Booking by Court Venue and Degree of Offense

	Booked prior to filing date	Booked the same day as filing date	Booked after filing date	N
All cases	71.6%	15.9%	12.5%	17,930
Court venue* **				
District court only	44.3%	5.8%	49.9%	361
Magistrate court only	73.9%	16.2%	9.9%	13,758
Both	65.7%	15.9%	18.3%	3,811
Offense degree* **				
Felony	64.5%	17.1%	18.3%	6,577
Misdemeanor	75.6%	15.3%	9.1%	11,353

***p≤.001

Time between booking and filing by detention status

Besides the rules that the time between the offense date and case filing in general, additional rules indicate that cases should be filed more quickly if the defendant is in custody. Thus, we would expect that the number of days between booking and filing would be shorter for those in custody at the time of case filing. The data confirms this expectation. In the table below, we examine the time to filing for those who were booked before the case was filed. The average time between booking and filing for those in custody was 1.87 days, with a median of one day. Among those who were not in custody at the time the case was filed, the average number of days was 6.01, with a median of two days.

Table III.8 Average Number of Days from Booking to Filing by Custody Status

	Custody status	% (N)	Average days from booking to filing	Median days from booking to filing
All cases	In custody Not in custody	57.0% (7,315) 43.0% (5,515)	1.87 (3.36) 6.01 (20.34)	1.00 2.00
District court only	In custody Not in custody	43.1% (69) 56.9% (91)	8.26 (9.97) 76.49 (86.90)	6.00 50.00
Magistrate court only	In custody Not in custody	52.9% (5,378) 47.1% (4,787)	1.74 (2.74) 4.27 (7.17)	1.00 2.00
Both	In custody Not in custody	74.6% (1,868) 25.4% (637)	3.77 (18.07) 16.86 (56.28)	1.00 3.00

Significant differences found at p≤.001 for cases overall and by court venue

The time between booking and filing among those detained varied somewhat by whether the case was heard in district court only. Among cases heard only in district court, the median number of days between booking and filing for those in custody was 6 days, and just 1 day for those involving the magistrate court (whether resolved there or bound over).

Among those not in custody at the time of the case filing, the median number of days increases dramatically: 50 days, with an average of 76.49 days. The median number of days for those whose cases were only in magistrate court was two, and three for those who had both magistrate and district court cases.

Measures of time to adjudication

The AOC measures time to adjudication from the case filing date for magistrate and district court cases separately. Thus, for defendants who have multiple cases (such as when a case is bound over), the actual time to case resolution is underestimated. In addition, for those detained prior to case filing, the use of the filing date underestimates the length of time to resolution. However, we do not know the extent to which using these criteria underestimates time to resolution.

Thus, we began by measuring time to adjudication from three different points: the date of booking, the date of case filing, and the earliest of these dates. Since some individuals were involved with multiple cases, we began by examining the time to adjudication by each court case. The table below shows the time to disposition from the booking date, the filing date, and the earliest date. For cases involving the magistrate court, the median time to disposition is shorter when we begin with the booking date rather

than filing date. This occurs both for cases that are heard only in magistrate court (96 days versus 105 days) and those bound over to district court (31 days versus 34 days). The same is true when the case is tried only in district court; the median time to disposition from the booking date is 227.5 days compared to 307 days from the filing date. However, for cases that begin in magistrate court and are then bound over to district court, the time from case filing is shorter (270 days) than from booking (348 days). Thus, the true time in the system may be under-reported when using the filing date for district court cases that begin in magistrate court, but not for cases heard only in magistrate court. Due to these mixed findings, the best measure of time to disposition is the earliest date available. While expected, it is notable that the time to resolution for magistrate cases that were bound over to the district court are significantly shorter than those whose ultimate resolution occurred in magistrate court.

Table III.9 Average Time to Disposition by Court Venue by Case

		District court only	Magistrate court only	Both	
				Magistrate	District
From booking date	**Mean (std. dev.)**	334.64 (303.79)	152.87 (176.04)	52.59 (104.89)	421.71 (276.10)
	Median	227.50	96.00	31.00	348.00
From filing date	**Mean (std. dev.)**	406.48 (322.64)	164.39 (184.89)	65.62 (105.79)	355.43 (264.33)
	Median	307.00	105.00	34.00	270.00
From earliest date	**Mean (std. dev.)**	426.29 (323.58)	166.95 (185.11)	69.26 (109.32)	427.43 (275.19)
	Median	331.50	108.00	35.00	352.00

Note: The unit of analysis for this table is each court case

We explored the proportion of cases that were resolved by time categories. This analysis allows us to better understand how many cases are resolved within various periods of time, rather than the average time to adjudication. Here we compared the time to adjudication from the filing date compared to the earliest date.

As would be expected, the majority of magistrate cases were disposed within six months. Confirming the analyses above, a greater proportion of magistrate court cases that were bound over to the district court were adjudicated within six months compared to those heard only in magistrate court. District court cases were more likely to take between one and two years to adjudicate. Using the earliest date rather than the filing date made relatively little difference for district only cases and magistrate cases in terms of the proportion of cases disposed within each period (e.g., 6 months, 1 year, 2 years). However, the differences were substantial for district court cases bound over from magistrate court, especially for those cases disposed within six months, two years, or two years or more.

Table III.10 Time to Disposition by Court Venue by Case

	District only		Magistrate only		Both			
					Magistrate		District	
	From earliest date	From filing date	From earliest date	From filing date	From earliest date	From filing date	From earliest date	From filing date
Disposed within 6 months	23.4%	25.3%	69%	69.6%	92.3%	93.0%	15.9%	28.6%
Disposed within 1 year	26.4%	27.5%	17.4%	16.9%	4.9%	4.5%	33.1%	30.1%
Disposed within 2 years	28.3%	26.7%	9.4%	9.4%	1.9%	1.8%	30.7%	25.8%
Disposed 2 years or more	16.1%	14.7%	2.1%	2.0%	0.6%	0.5%	14.8%	10.0%
Ongoing	5.7%	5.7%	2.2%	2.2%	0.6%	0.2%	5.4%	5.4%
N	367	367	14,126	14,126	3,859	3,859	3,871	3,871

Note: The unit of analysis for this table is each court case

Clearance rate by booking

Next, we assessed the proportion of cases associated with each booking that were disposed. For this analysis and those remaining, we include all cases associated with the booking of interest; thus, the unit of analysis is the booking, not the case. Further, we use the earliest date as the starting point to calculate time to disposition. By the end of the study period, nearly all (97%) cases were disposed (had a final disposition on all cases associated with the booking), and 98.3% had at least one case that was disposed. However, since cases entered the study at different times, the exposure time differed. Thus, we standardized the time to adjudication to two years. Just under 92% of cases associated with the booking of interest were adjudicated within two years. Over half (56%) of the cases were adjudicated within six months, another 15% took one year to be resolved, and 5% took two years.

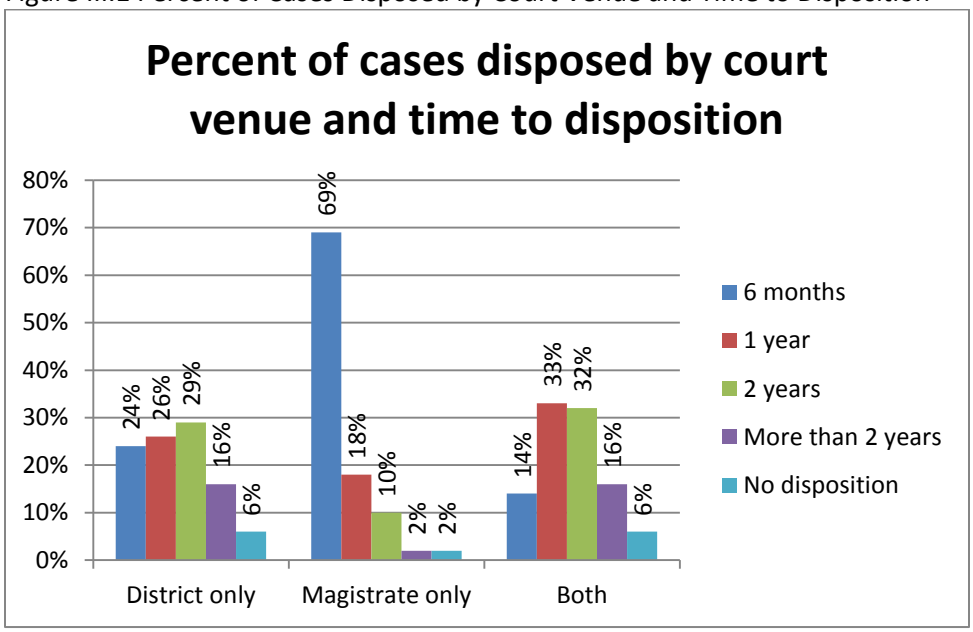
Table III.11 Months to Disposition for All Cases Associated with Booking

	N	%	Cumulative %
Disposed within 6 months	10,048	56.0 %	56.0%
Disposed within 1 year	3,754	20.9%	77.0%
Disposed within 2 years	2,638	14.7%	91.7%
Disposed 2 years or more	952	5.3%	97.0%
Ongoing	538	3.0%	100%

Clearance rate by court venue

Time to adjudication varied by court venue. As illustrated in Figure III.1, cases heard in magistrate court were significantly more likely to be resolved within six months than cases that included district court. Further, 4% of cases heard only in magistrate court were either not yet resolved or took more than two years to resolve, compared to 22% of cases heard in district court (either solely in district court or bound over from magistrate court). Among cases heard only in district court, 24% were resolved within six months compared to 14% of those which included both magistrate and district court. However, nearly 50% of bookings associated with any district court case (whether solely or bound over from magistrate court) were disposed of within one year.

Figure III.1 Percent of Cases Disposed by Court Venue and Time to Disposition



Average time to adjudication among cases disposed within two years

The average time to adjudication for all cases associated with each booking is displayed in Table III.12 below. Overall, among cases disposed within two years, the average time to disposition was 189.40 days; the median was 138 days.[9] As may be expected, the median time to adjudication was longest for cases involving both magistrate and district court (315 days) and shortest for cases heard in magistrate court only (107 days).

[9] We limited the analysis to cases disposed within two years so the follow up period would be the same for all bookings in the sample.

Table III.12 Average Time to Adjudication

	Average time to adjudication	Median	N
All Cases	189.40 (169.51)	138	16,440
District court cases	308.23 (184.43)	272	281
Magistrate court cases	151.73 (145.83)	107	13,166
Both	343.93 (172.21)	315	2,993

Conviction and sentencing

Over half (58.7%) of the cases prosecuted resulted in a conviction. However, convictions were more common among cases involving the district court than those heard in magistrate court only. Just over half (54%) of bookings associated with only magistrate court cases resulted in a conviction, while 80% of those involving the district court resulted in conviction.

Table III.13 Case Outcomes

	N	%
Conviction all cases	**16,288**	**58.7%**
District only	234	80.3%
Magistrate only	13,136	53.5%
Both	2,918	80.5%

Sentencing information was available in the automated court records for most cases. However, we did not have sentencing information for 17% of cases. Among those for whom we did have sentencing information, most cases resulted in either some period of confinement (42.4%), whether ultimately suspended or not, or probation only (41%). However, this varied by court venue. Cases involving district court were more likely to include a period of confinement, whereas magistrate cases were more likely to include probation only.

Table III.14 Sentence Type by Court Venue

	All cases		District court only		Magistrate court only		Both district and magistrate court	
Sentence type	**N**	**%**	N	%	N	%	N	%
Some confinement	4,046	42.0%	108	50.2%	2,620	37.3%	1,318	54.9%
Probation only	3,825	40.1%	67	31.2%	3,023	43.0%	774	32.3%
Time served only	56	0.6%	3	1.4%	34	0.5%	19	0.8%
Unknown	1,677	17.4%	37	17.2%	1,352	19.2%	288	12.0%

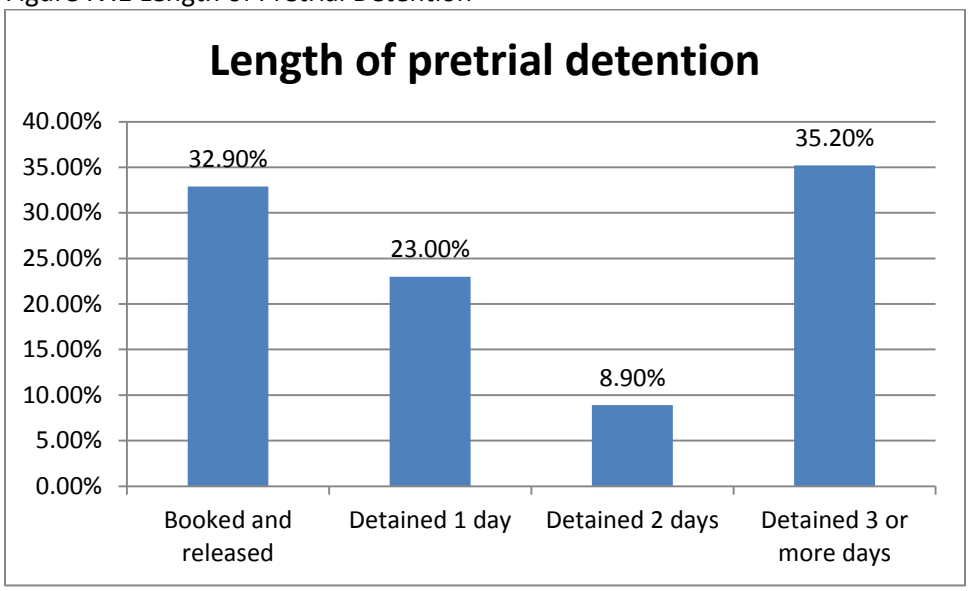
Section IV. Pretrial detention

The primary purpose of this research is to examine pretrial detention. In this section, we explore the length of pretrial detention and examine factors associated with pretrial detention. Note that we use the terms "days detained," "time detained," and "length of stay" interchangeably. All refer to the number of days individuals were detained pretrial.

Pretrial detention rates and time

Over half (67%) of those in the sample were detained for at least 24 hours, while just over one-third of the sample was detained for three or more days. The maximum number of days that anyone was detained pretrial was 1327.

Figure IV.1 Length of Pretrial Detention



Overall, defendants were detained an average of 13 days, with a median of one day. We also examined the length of detention among those who were detained one or more days. Among those detained for some period of time, but less than the entire pretrial period, the average number of days detained increased slightly to just under 14 days, with a median of two days. Less than 10% of the sample was detained for the duration of the pretrial period. Among those that were detained the entire pretrial period, the average number of days detained increased to 59 days, with a median of 17 days.

Table IV.1 Average Time Detained

	Mean (std dev)	Median	N
Average time detained entire sample	13.46 (55.21)	1.00	17,930
Average time detained if in for at least one day but not entire time	13.91 (52.01)	2.00	10,375
Average time detained if detained from booking until disposition	58.83 (115.911)	17.00	1,648

The number of days detained increased rapidly between those detained for at least one day and those detained for the entire pretrial period. This is especially notable for those whose cases are heard in

district court. Among district court cases overall, the median number of days detained was four. The median number of days detained for those detained one or more days increased to 7 days. The median number of days detained was much higher for those detained the entire pretrial period: 126 days. Among defendants whose cases were heard in magistrate court only, the median number of days detained was 14 for those who spent the entire pretrial period in jail, compared to just 2 days for those who spent some part of the pretrial period in detention.

Table IV.2 Average Time Detained by Pretrial Detention Period

	District Court			Magistrate Court		
	Mean	Median	N	Mean	Median	N
Average time detained entire sample	39.86 (105.32)	4.00	4,172	5.45 (18.27)	1.00	13,758
Average time detained if in for at least one day	32.36 (89.33)	7.00	3,006	6.39 (18.92)	2.00	7,369
Average time detained if detained from booking until disposition	175.67 (186.54)	126.00	393	22.24 (33.92)	14.00	1,255

Length of pretrial detention by county

As can be seen in the Table IV.3 below, the length of detention varies significantly by county. Arrestees booked into Chaves, Doña Ana, Luna, and Otero County detention centers were more likely to be booked and released than to be detained. Notably, over half of those individuals booked into Doña Ana county (51.4%) were released the same day they were booked, and the median number of days detained was 0. Individuals booked into the Colfax County Detention Center remained there an average of nearly 18 days, with a median of 5 days. Further, 77.6% of those booked into the Colfax County Detention Center were detained one or more days. However, the proportion of individuals who were detained at least one day was highest at the McKinley County Detention Center, where nearly 80% were detained at least one day. However, the average number of days detained there was relatively low (9.95 days), with a median of two days.

Table IV.3 Length of Pretrial Detention

	Detainees found in court	% of sample Booked and released	% of sample Detained one or more days	Average time detained	Median time detained	% within county detained at least one day
Chaves (n=1703)	9.5%	12.6%	8.0%	19.51 (69.58)	1.00	55.2%
Colfax (n=442)	2.5%	1.6%	2.9%	17.76 (38.40)	5.00	77.6%
Doña Ana (n=2745)	15.3%	24.3%	10.9%	11.55 (52.95)	0.00	48.6%
Luna (n=641)	3.6%	4.1%	3.3%	24.98 (78.31)	1.00	69.1%
McKinley (n=2815)	15.7%	9.1%	18.9%	9.95 (31.29)	2.00	79.6%
Otero (n=1405)	7.8%	8.2%	7.6%	17.11 (65.01)	1.00	64.7%
Sandoval (n=2578)	14.4%	11.1%	16.0%	9.79 (44.23)	2.00	69.5%
Santa Fe (n=3246)	18.1%	18.8%	17.8%	8.35 (41.02)	1.00	71.5%
Valencia (n=2355)	13.1%	10.3%	14.5%	20.42 (78.48)	2.00	73.4%
N	17,930	5,907	12,023***	17,930***	17,930	12,023

***p≤.001, **p≤.01, *p<.05

In Table IV.4 below, we illustrate the median number of days detained overall, among those detained for some period of time, and for those detained the entire pretrial period. Although individuals in Doña Ana County and Chaves County were among the least likely to be detained at all, they have the longest median detention times when detained for the entire pretrial period. For all counties except Colfax, the median time detained was significantly longer for those detained the entire pretrial period than for those detained for only some period of time before trial.

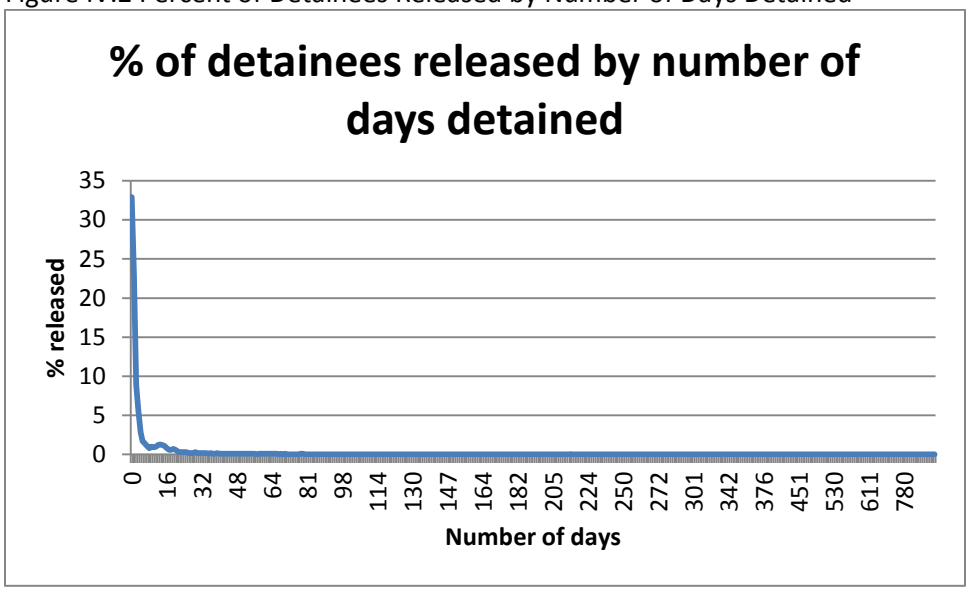
Table IV.4 Median Time Detained by Period Detained and County

	Median time detained overall	Median time detained if detained for some period of time	Median time detained if detained for entire pretrial period
Chaves (n=1703)	1.00	3.00	28.50
Colfax (n=442)	5.00	8.00	7.00
Doña Ana (n=2745)	0.00	1.00	37.50
Luna (n=641)	1.00	3.00	28.00
McKinley (n=2815)	2.00	3.00	16.00
Otero (n=1405)	1.00	2.00	18.50
Sandoval (n=2578)	2.00	2.00	14.00
Santa Fe (n=3246)	1.00	1.00	15.00
Valencia (n=2355)	2.00	3.00	20.00
Overall	1.00	2.00	17.00
N	17,930	10,375	1,648

Readers who are familiar with the New Mexico Sentencing Commission's (NMSC) study (Freeman, 2012) on length of stay may notice the times reported here are much shorter in comparison. The difference is due to the methodology used. Since we include everyone who was booked over a two-year period for a new offense, the time detained is heavily influenced by the volume of individuals who are booked and released or those who spend a very short time in each facility. Conversely, the NMSC examined a sample of individuals who were detained on one particular day. Studies that use this method are more influenced by those who spend a long time in the facility. Taking these differences in methodology into consideration, we can infer that most people spend a relatively short time detained; however, those who do remain in the detention centers tend to spend a relatively long time detained.

This point is illustrated with the following graph, which shows the proportion of people released by the number of days detained. For example, 32.9% of the detainees were booked and released (the point directly above the 0). This percentage drops to nearly 2.8% when the number of days detained is four. There is a slight increase at 13 days, when 1.3% of detainees were released. After this point, the proportion of releases is less than 1% and remains steady. Most of those are detained for a relatively long time. Please see Appendix E for additional information.

Figure IV.2 Percent of Detainees Released by Number of Days Detained



Characteristics of detainees

In this section, we compare the characteristics of those detained pretrial to those who were booked and released. When the data allow, we also compare length of time detained by detainee characteristics. We begin with demographic characteristics. We then explore the relationship between pretrial detention and current offenses, prior offenses, and bond.

Demographic characteristics of those detained pretrial

The average age of individuals in the sample was 34.10. Those who were booked and released were slightly younger (33.93 years old) than those detained one or more days (34.18 years old); the difference was not statistically significant.

As can be seen in the table below, when comparing percentages of those booked and released to those detained one or more days, Native Americans were more likely to be detained than Hispanic and White arrestees.[10] These differences were statistically significant. The average time detained, however, was shortest for Native Americans and longest for arrestees from "other" racial/ethnic groups (i.e., Asian, African American, unknown) followed by White arrestees. These differences were also statistically significant. Conversely, the median length of time detained for Native Americans was 2 days, but 1 day for all other racial/ethnic groups. Overall, these results suggest that while Native Americans are more likely to be detained, those who are detained for long periods of time are more likely to be from other racial or ethnic groups.

Almost 76% of the sample was male, which means that only a quarter of our sample were female. Males were significantly more likely to be detained than females. While the median length of stay was the same for both males and females, the average length of detention was significantly longer for males (15.32 days compared to 7.74 for females) indicating that on average, males are detained for longer periods of time than females.

Table IV.5 Demographic Characteristics by Detention Status

	Detainees found in court	Booked and released	Detained one or more days	Average time detained	Median time detained
Age					
Mean (s.d.)	34.10 (11.71)	33.93 (11.88)	34.18 (11.63)	---	---
Median	32.00	31.00	32.00		
N	17,925	5,904	12,021	---	---
Race					
Native American	17.3%	9.7%	21.1%***	10.35 (38.02)***	2.00
Hispanic	37.8%	42.2%	35.7%	13.40 (56.97)	1.00
White	41.2%	44.6%	39.5%	14.32 (57.36)	1.00
Other	3.7%	3.6%	3.8%	18.89 (76.11)	1.00
N	17,930	5,907	12,023	17,930	17,930
Gender					
Male	75.5%	73.5%	76.4%***	15.32 (60.26)**	1.00
Female	24.5%	26.5%	23.6%	7.74 (34.81)	1.00
N	17,930	5,907	12,023	17,930	17,930

***p≤.001, **p≤.01, *p<.05

[10]We also examined these data without Sandoval and Colfax Counties since these counties did not record Hispanic ethnicity. While there were some differences in the proportion of Hispanics (more) and Whites (fewer) when we exclude these counties, the general results are the same: Native Americans were more likely to be detained than either Whites or Hispanics, and the average time detained was about the same for each racial/ethnic group. However, a greater proportion of Hispanics were detained than Whites. This is summarized in Appendix F.

Current offense and pretrial detention

In Table IV.6 below, we display pretrial detention by current offense information as recorded in the court. Individuals whose most serious offense involved a violent crime, property crime, or drug crime were more likely to be detained for at least one day than those with other offenses. The average number of days detained was greatest for those accused of the aforementioned crimes as well. Although those with a violent offense were detained for the longest average number of days, the median number of days was highest for property offenders, indicating that most property offenders spend slightly more time in detention than violent offenders and that some violent offenders spend an especially long time detained, skewing the average.

As might be expected, those whose current offense included a felony charge were both more likely to be detained and to spend a longer time in pretrial detention. Likewise, individuals whose cases were heard in magistrate court only were less likely to be detained; they were also detained for a significantly shorter amount of time than those whose cases involved district court.

Table IV.6 Pretrial Detention by Current Offense

		Detainees found in court	Booked and released	Detained one or more days	Average time detained	Median time detained
Current offense	Violent	31.8%	22.6%	36.4%***	22.75 (84.19) ***	2.00
	Property	13.6%	7.6%	16.6%	20.22 (54.28)	3.00
	Drug	10.1%	9.0%	10.6%	12.91 (38.90)	1.00
	DWI	22.7%	31.6%	18.3%	4.59 (14.11)	1.00
	Other	3.4%	4.2%	3.0%	4.38 (13.61)	1.00
	Public order	16.4%	23.4%	13.0%	4.45 (19.27)	1.00
	Unknown	1.9%	1.6%	2.1%	12.11 (55.00)	1.00
	N	17,930	5,907	12,023	17,930	17,930
Offense degree severity	Felony	36.7%	18.8%	45.5%***	29.02 (86.56)***	4.00
	Misdemeanor	62.7%	80.5%	54.0%	4.44 (15.93)	1.00
	Unknown	0.6%	0.7%	0.6%	3.62 (6.49)	1.00
	N	17,930	5,907	12,023	17,930	17,930
Type of court	District	2.0%	1.3%	2.4%***	42.92 (123.79)***	6.00
	Magistrate court only	76.7%	86.9%	71.7%	5.45 (18.27)	1.00
	Both	21.3%	11.8%	25.9%	39.57 (103.41)	4.00
	N	17,930	5,907	12,023	17,930	17,930

***p≤.001, **p≤.01, *p<.05

Prior offenses and pretrial detention

More than half (58%) of those in our sample had at least one prior offense. The proportion was greater for those who were detained at least one day: 62%. Further, the average time detained was significantly longer for those with one or more prior arrests (16.21 days) compared to those who did not have any prior arrests (9.61 days). Those who were detained also had a greater average number of prior arrests (4.34) than those who were booked and released (3.32). In addition, those with a prior felony arrest

were more likely to be detained, and for a longer time than those without a prior felony arrest (22.55 days vs. 10.05 days, respectively).

Based on prior arrest information, 12% of the sample was arrested for a previous failure to appear (FTA) at a court hearing. Note that this measure likely underestimates actual prior FTA in court, as explained previously. Those with a documented FTA were significantly more likely to be detained than those without a prior FTA. While those with a prior FTA were detained for a longer period of time than those without an FTA (15 days compared to 13 days on average), the difference was not statistically significant.

Table IV.7 Pretrial Detention by Criminal History

	Prior criminal history	Detainees found in court	Booked and released	Detained one or more days	Average time detained	Median time detained
Prior arrests	**Prior arrests** **No prior arrests** N	58.3% 41.7% 17,930	50.7% 49.3% 5,907	62.0%*** 38.0% 12,023	16.21 (57.85) *** 9.61 (51.06)	1.00 1.00
Number of prior arrests	**Mean (std. dev)** **Median** N	4.06 (4.02) 3.00 N=10,448	3.32 (3.42) 2.00 N=2,993	4.34 (4.21) *** 3.00 N=7,455		
Prior arrest for a felony offense	**Prior felony** **No prior felony** N	27.2% 72.8% 4,885	19.3% 80.7% 1,141	31.1% *** 68.9% 3,744	22.55 (66.56) 10.05 (49.88)	3.00 1.00
Number of prior felony arrests	**Mean (std. dev)** **Median** N	2.184 (1.83) 1.00 4,885	1.911 (1.71) 1.00 1,141	2.27 (1.86)*** 2.00 3,744		
Most serious prior offense	Violent Property Drug DWI Other Public order N	38.8% 18.1% 9.9% 20.2% 4.0% 8.9% 10,448	32.0% 13.2% 11.0% 28.8% 4.5% 10.5% 2,993	41.5%*** 20.1% 9.5% 16.8% 3.8% 8.3% 7,455	22.26(72.95) 19.00(53.24) 13.34(56.05) 7.16(34.72) 12.13 (38.26) 9.28(33.98) 10,448	2.00 2.50 1.00 1.00 1.00 1.00
Prior failure to appear	Any prior FTA No prior FTA N	12.3% 77.7% 17,930	8.8% 91.2% 5,907	14.0% *** 86.0% 12,023	15.05 (44.36) 13.23 (56.56)	2.00 1.00

***p≤.001, **p≤.01, *p<.05

Pretrial detention and bond

We examined the relationship between pretrial detention and bond. Among counties who provided bond information, some amount of bond was noted for most individuals; nearly 80% had some amount listed.[11] Those who had a bond amount listed were more likely to be booked and released than those

[11] Information about bond was not provided by two counties, and therefore are excluded here. Further, the bond amounts did not always appear to be accurate. For example, we noted some very, very high bonds set for very minor offenses. After looking up some of these cases, we discovered that bond information from another incident was included for that individual. Thus, we opted to examine the smallest bond amount listed.

who did not have a bond amount. The data from some counties was adequately populated to determine whether someone was eligible for bail versus released on their own recognizance; however, these data were not sufficient to make that determination in other counties. Thus, we could not determine whether the omission of a bond amount was because the individual was not eligible for bond or if it was because it was not required (i.e., the person was released on their own recognizance).

Among those who did have a bond amount listed, the average minimum amount was significantly higher among those detained for at least one day, though the median was lower suggesting that the large values are skewing the averages. The bivariate correlation between pretrial detention days and amount of bond among those with bond was weak (.070) though statistically significant (p=.01).[12]

Table IV.8 Pretrial Detention and Bond

		Detainees found in court	Booked and released	Detained one or more days	Average time detained	Median time detained
Bond Listed	Has bond listed No bond listed N	80.1% 19.9% 12,913	88.7% 11.3% 4,642	75.3% 24.7% 8,271	8.29 (38.80) 30.32 (82.77) 8,271	1.00 5.00 8,271
Bond amount	Average amount of bond Median amount of bond N	$3,088.20 (46,754.69) $1,000.00 12,913	$1,879.41 (5,069.68) $1,000.00 4,642	$5,158.15 (67,115.16) $1,000.00 8,271		

Relative influence of legal and extralegal variables on pretrial detention

The bivariate analyses above suggest a number of legal and extralegal factors are associated with whether or not someone is detained. However, it is important to understand the relative influence of each of those variables once other factors are taken into consideration. Thus, we calculated binary logistic regression models to determine which legal and extra-legal factors play a role in whether someone is detained rather than booked and released. We calculated three different models. The baseline model includes only demographic variables; the second adds current offense information, and the last adds prior offense information.

These results are displayed in the table below. The coefficients are log-odds, as described in the methods section. Values over one indicate that for every one-unit increase, the odds of detention increase by that amount. Values less than one indicate that the odds of detention decrease for every one-unit increase in the predictor variables. The addition of each set of variables (current and prior offense history) to the baseline model with demographics significantly improved the fit of the model. While logistic regression does not produce a statistic that summarizes the variance explained in the dependent variable, a pseudo-R2 can be examined. These values also indicate that the model improves with each set of additional variables.

[12] Correlations range in value from -1 to +1, with 0 indicating no relationship and 1 indicating a perfect relationship.

Several demographic variables were significantly related to pretrial detention. Older individuals, males, and those who are Native American were significantly more likely to be detained one or more days. Notably, the odds of being detained one or more days is more than 3 times greater for Native Americans than for Whites, even after controlling for prior and current offenses as seen in Model 3. When we included all counties, Hispanics were no more likely than Whites to be detained pretrial. Recall, however, that we did not have ethnicity for two counties. When we ran the models without those two counties, we found that Hispanics were significantly more likely than Whites to be detained for at least one day. These results are available in Appendix F.

Offense type also matters. Relative to those whose most serious offense is a violent crime, those with a drug offense, DWI, other offense or public order offense are significantly less likely to be detained one or more days. Those with a property offense, however, are equally likely to be detained as those with a violent offense. Those whose current offense includes one or more felonies are 2.9 times more likely to be detained than those who only have misdemeanors.

Prior offense information was also significantly related to pretrial detention. Those whose prior arrests include a felony or a violent offense, or who had previously failed to appear for a court date were much more likely to be detained one or more days than those who did not.

Table IV.9 Logistic Regression Results: Detained or Not

		Model 1	Model 2	Model 3
Demographics only	**Age**	1.002	1.009***	1.009***
	Race (white omitted)			
	Hispanic	0.942†	0.987†	0.943†
	Native American	2.463***	3.508***	3.404***
	Other	1.182	1.105	1.102
	Gender (female omitted)			
	Male	1.195***	1.228***	1.156***
Current offense	**Current offense (Violent omitted)**			
	Property		1.136*	1.088
	Drug		0.655***	0.650***
	DWI		0.432***	0.463***
	Public order		0.456***	0.474***
	Other		0.456***	0.448***
	Degree (Misdemeanor omitted)			
	Felony		2.961***	2.896***
Prior offense	**Number prior felony arrests**			1.135***
	Prior violent offense (no omitted)			1.319***
	Prior FTA (no omitted)			1.259***
Model summary	**Constant**	1.487	1.141	1.037
	N	17,925	17,925	17,925
	-2LL model 1 (df)	22294.11 (5)	20315.89 (11)***	20108.23 (14)***
	Cox & Snell R square	.023	.125	.136
	Nagelkerke R Square	.033	.175	.189
	% correct	67.1%	70.4%	71.2%

***p≤.001, **p≤.01, *p≤.05

†When we excluded Colfax and Sandoval counties, we found Hispanics were significantly more likely to be detained.

We recognize that bond is an important component of pretrial detention. Two detention centers did not provide us with information about bond. Thus, we estimated these models separately. We chose to use amount of bond as the predictor. This was not significantly related to pretrial detention. The results are available in Appendix F.

Influence of legal and extralegal factors on pretrial detention by court venue

Since the factors that influence pretrial detention may vary by the court venue, we ran separate logistic regression models for those cases that had any district court involvement and those that were heard only in magistrate court.[13] We found some differences; these are displayed below.

In the models with all counties, age is statistically significant only for cases heard only in magistrate court, not those heard in district court. Regardless of court venue, though, Native Americans are significantly more likely to be detained than Whites. However, whether someone is male is only significant when we include all cases, not by court type.

When the models exclude Colfax and Sandoval counties, we found that Hispanics were more likely than Whites to be detained. This variable was significant in the overall model and for the magistrate court only model, but not the district court only model. A comparison of the model results is available in Appendix F.

Although the direction of the relationships between current offense and pretrial detention is the same regardless of which court ultimately heard the case, the strength of the relationship varies somewhat by court type. Among cases involving district court, arrestees with property offenses were significantly more likely to be detained than those with violent offenses, though the significance level was relatively low ($p \leq .05$). Those with drug offenses, DWI, public order, and other offenses were all less likely to be detained than those with a violent offense. However, the strongest relationship in terms of statistical significance among district court cases was DWI; those individuals who were booked for a DWI were significantly less likely to be detained than those with a violent offense. In all models, those whose offense included a felony were significantly more likely to be detained, with the odds of detention varying from 2.6 to 3.96 times more than those with only a misdemeanor.

Finally, all of the prior offense history variables were significantly related to the likelihood of detention regardless of court venue. However, among cases heard in district court, whether the individual had an arrest for a violent offense had the weakest relationship with detention in terms of statistical significance.

[13] In the bivariate, rate of pretrial detention and length of pretrial detention among those who had cases in both magistrate and district court was most similar to those who had only district court cases rather than magistrate court cases only. Further, there were so few district court only cases that a multivariate analysis was not possible with this subgroup. Therefore, we compare all cases with any district court involvement to those with only magistrate court involvement.

Table IV.10 Logistic Regression Results: Pretrial Detention by Court Venue

		All cases	Any district court	Magistrate court only
Demographics	**Age**	1.009***	.997	1.011***
	Race (white omitted)			
	Hispanic	.943†	.854†	.970†
	Native American	3.404***	4.896***	3.380***
	Other	1.102	1.149	1.088
	Gender (female omitted)			
	Male	1.156***	1.177	1.159***
Current offense	**Most serious offense (Violent omitted)**			
	Property	1.088	1.287*	1.001
	Drug	.650***	.799*	.588***
	DWI	.463***	.523***	.451***
	Public order	.474***	.438*	.470***
	Other	.448***	.927	.429***
	Degree (Misdemeanor omitted)			
	Felony	2.896***	3.955***	2.618***
Prior offenses	**Number prior felony arrests**	1.135***	1.215***	1.112***
	Prior violent offense (no omitted)	1.319***	1.384***	1.251***
	Prior FTA (no omitted)	1.259***	1.332***	1.323***
Model summary	**Constant**	1.037	1.021	.997
	N	17,925	4,171	13,754
	Cox & Snell R square model 3	.136	.082	.120
	Nagelkerke R Square model 3	.189	.134	.163
	% correct model 3	71.2%	82.7	67.6%

***p≤.001, **p≤.01, *p<.05

†When we excluded Colfax and Sandoval counties, we found Hispanics were significantly more likely to be detained.

Influence of legal and extralegal variables on length of pretrial detention

It is also important to assess the relative influence of legal and extralegal variables on the *length* of pretrial detention. In order to assess this, we calculated multivariate linear regression models. Like the logistic regression models above, we computed three different models, adding in groups of variables each time. While the original, demographics only model indicates that Native Americans spend significantly less time detained than Whites, once other variables are accounted for, this finding was no longer statistically significant. Further, when we excluded Sandoval and Colfax counties, we found that Hispanic detainees were detained for a significantly shorter number of days than Whites. All models indicate that males were significantly more likely to be detained than females.

The current offense was also significantly associated with length of detention. Those individuals whose most serious offense was a violent crime spent a significantly greater amount of time in pretrial detention than those with any other offense. Felony offenders had a significantly longer length of stay

than those charged with a misdemeanor. Further, this variable had the strongest relationship with length of stay, indicating that it was the best predictor of length of stay.

Finally, both the number of prior felony arrests and whether there was a prior violent offense significantly increased the predicted length of stay. Surprisingly, though, those with a prior FTA were associated with a significant decline in the predicted number of days detained.

Table IV.11 Multiple Regression Results: Length of Pretrial Detention

		Model 1	Model 2	Model 3
Demographics	**Age**	-.008	.005	.005
	Race (white omitted)			
	Hispanic	-.010	-.002	-.009†
	Native American	-.026***	-.001	-.003
	Other	.015	.012	.011
	Gender (female omitted)			
	Male	.058***	.056***	.047***
Current offense Information	**Most serious offense (Violent omitted)**			
	Property		-.046***	-.050***
	Drug		-.075***	-.075***
	DWI		-.069***	-.060***
	Other		-.036***	-.035***
	Public order		-.061***	-.060***
	Degree (Misdemeanor omitted)			
	Felony		.205***	.198***
Prior Offense	**Number prior felony arrests**			.069***
	Prior violent offense (no omitted)			.031**
	Prior FTA (no omitted)			-.019***
Model summary	**F-test**	16.037***	98.185***	86.369***
	Adjusted R-square	.004	.056	.063
	N	17,924	17,924	17,924

***p≤.001, **p≤.01, *p<.05

†When we exclude Sandoval and Colfax counties, this is significant (p≤.01).

While bond was not significantly associated with whether or not an individual was detained pretrial, it was a significant predictor of length of detention. The positive value indicates that individuals with higher bonds were more likely to be detained for a greater length of time. Once bond was considered, two of the race/ethnicity variables were significant. Hispanic detainees were more likely to spend significantly fewer days in the detention facility than Whites. Those whose race/ethnicity was in the "other" category were more likely to spend more time in jail than Whites were, though this was only marginally significant. Recall that when we include bond, we exclude two counties, so this may account for the change in the significance of these variables. The relationship between the remaining variables and length of stay remained the same.

Table IV.12 Multiple Regression Results: Length of Pretrial Detention with and without Bond Variable

		Days detained	Days detained with bond variable
Demographics	**Age**	.005	.005
	Race (White omitted)		
	Hispanic	-.009	-.034***
	Native American	-.003	-.011
	Other	.011	.014*
	Gender (Female omitted)		
	Male	.047***	.041***
Current offense information	**Current offense (Violent omitted)**		
	Property	-.050***	-.042***
	Drug	-.075***	-.068***
	DWI	-.060***	-.056***
	Public order	-.035***	-.054***
	Other	-.060***	-.034***
	Degree (Misdemeanor omitted)		
	Felony	.198***	.209***
Prior offense	**Number prior felony arrests**	.069***	.067***
	Prior violent offense (no omitted)	.031**	.034***
	Prior FTA (no omitted)	-.019***	-.020*
Bond	**Minimum bond amount**	---	.025**
Model summary	**N**	17,924	12,907
	R-square	.063	.068
	Adjusted R-square	.063	.067
	F-test	86.647 (14/17910 df)***	62.963 (15/2892)***

***p≤.001, **p≤.01, *p<.05

Length of detention by court venue

We computed the regression models separately for those cases that had any district court involvement and those that involved magistrate court cases only. The results are displayed below. We found that while race/ethnicity was not a significant predictor in the overall model or for district court cases, it was for magistrate court cases. Relative to White detainees, Hispanic detainees were held for a significantly shorter time, while Native Americans were held for a significantly longer time.

Regardless of court venue, males were detained for a significantly longer time. Those booked for a violent offense spent a significantly longer time detained, regardless of court venue, compared to offenders booked for non-violent offenses. However, the period of detention was not significantly different between offenders charged with a violent offense and those charged with a property offense among those who were seen only in magistrate court. In all models, current felony offense is statistically significant, indicating that those booked for a felony spend a significantly longer time detained than those booked for a misdemeanor only.

Regardless of court venue, individuals with a greater number of prior felony arrests were more likely to be detained for a longer time. Further, those with a prior violent offense were more likely to be detained for a longer time than those whose offense was for some other crime. However, this was not statistically significant for those whose cases were heard in district court. Finally, prior FTA was associated with a significantly shorter time detained for detainees overall; this variable was not statistically significant when we separated the cases by venue.

Table IV.13 Multiple Regression Results: Length of Detention by Court Venue

		All cases	District	Magistrate
Demographics	**Age**	.005	.023	.013
	Race (white omitted)			
	Hispanic	-.009†	.003	-.026**‡
	Native American	-.003	-.002	.037***
	Other	.011	.024	.003
	Gender (female omitted)			
	Male	.047***	.077***	.044***
Current offense	**Most serious offense (Violent omitted)**			
	Property	-.050***	-.137***	-.011
	Drug	-.075***	-.172***	-.030***
	DWI	-.060***	-.144***	-.055***
	Other	-.035***	-.060***	-.061***
	Public order	-.060***	-.048**	-.030***
	Degree (Misdemeanor omitted)			
	Felony	.198***	.047**	.100***
Priors	**Number prior felony arrests**	.069***	.072***	.074***
	Prior violent offense (no omitted)	.031***	.025	.048***
	Prior FTA (no omitted)	-.019**	-.024	.007
Model summary	**F-test**	86.369***	18.173***	36.888***
	Adjusted R-square	.063	.058	.035
	N	17,924	4,170	13,753

***p≤.001, **p≤.01, *p<.05

†When we exclude Sandoval and Colfax counties, this is significant (p≤.01).

‡ When we exclude Sandoval and Colfax counties, this is no longer statistically significant

Section V. Pretrial performance

Judges must make determinations about whether someone is likely to fail to appear (FTA) or commit a new offense while awaiting trial. This is an important aspect of the pretrial release decision-making process. In this section, we examine FTAs and new offenses, both of which are considered failures if committed during the pretrial period.

Among those who were released during the pretrial period, 18% committed a new offense. New offenses were much more common among those whose cases were being heard in the district court (34.7%) rather than magistrate court only (13.2%). However, some of these offenses were likely FTAs. On occasion, the arrest violation in the DPS data lists the original charge rather than the FTA.

We determined whether someone failed to appear during the pretrial period using data from the booking facilities as well as arrest (DPS) data. Among those who were released pretrial, we found indications of FTAs for 7% (N=1282) of the sample. Those who had a case involving the district court were more likely to have an FTA (14%, N=586) than those whose cases were heard only in magistrate court (5%, N=696).

Overall, 20% of individuals had either an FTA or a new arrest. Those with a district court case were much more likely to have some sort of failure: 37% had an FTA, new arrest, or both. Just 15% of those with only magistrate court cases had an FTA, new arrest, or both.

Table V.1 New Offenses, FTAs, and Overall Pretrial Compliance

	Total N	%	n
New offenses during pretrial	16,240	18.2%	2,959
Any district cases	3,779	34.7%	1,310
Magistrate only	12,461	13.2%	1,649
FTA during pretrial	16,240	7.0%	1,282
Any district cases	3,779	15.5%	585
Magistrate only	12,461	5.6%	692
Any pretrial failure (new offense or FTA)	17,930	20.3%	3,644
Any district cases	4,172	37.4%	1,559
Magistrate only	13,758	15.2%	2,085

In the table below, we display the types of offenses for which people were arrested while awaiting disposition. Property offenses were most common in cases overall: 24% of people were arrested for a property offense. However, this was influenced by those with a district court case. Nearly one-third (31%) of those whose case was being tried in district court and had a new arrest were arrested for a property offense. The next most common offense among this group was a violent offense (23%) followed by a drug offense (16%).

Conversely, among those with a new arrest who were awaiting magistrate court case resolution, the most common offense was a public order offense (29.8%), some of which were likely FTAs. The next most common offense among this group was a property offense (19%) followed by DWI (17%).

Table V.2 Offense Type Among Those Who Had a New Arrest Pretrial

	Magistrate court only	District court	Total
Drug Offense	8.9%	16.1%	12.2%
DWI Offense	17.1%	6.0%	12.1%
Property Offense	19.0%	31.0%	24.4%
Public Order Offense	29.8%	12.5%	21.9%
Violent Offense	16.4%	23.1%	19.4%
Other Offenses	8.7%	11.3%	9.9%
Total	1,511	1,252	2,763

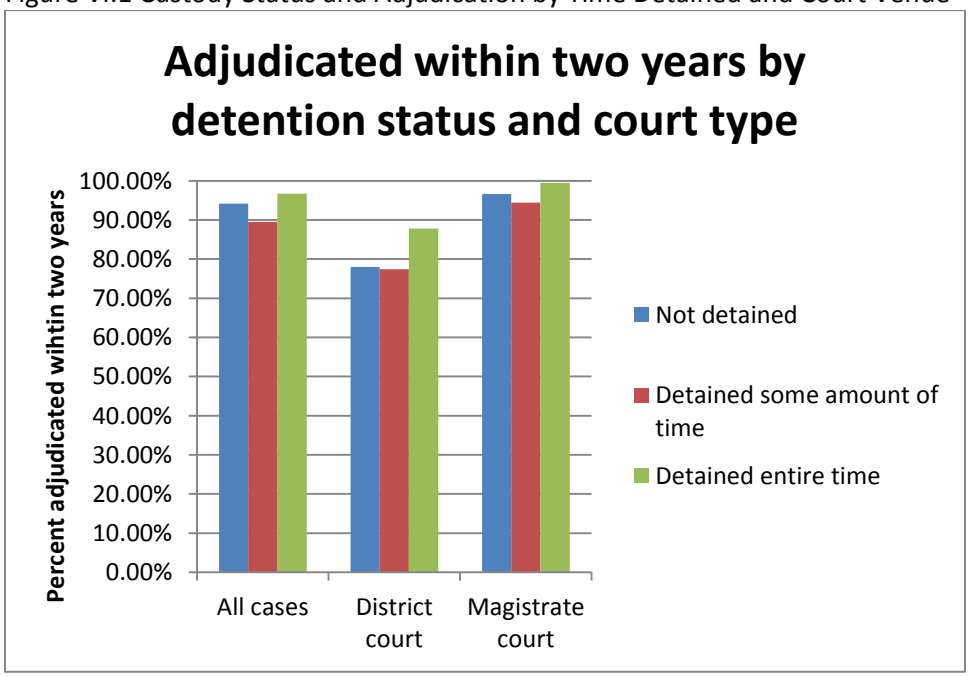
Section VI. Relationship between pretrial detention and case outcomes

The final purpose of this research is to explore the role of pretrial detention in case outcomes. In this section, we explore the relationship between pretrial detention and three outcomes: whether a case is disposed within two years, the time to disposition, and whether the case results in a conviction.

Custody status and adjudication rates

We begin by examining the relationship between pretrial custody status and whether cases were adjudicated within two years. As noted previously, the vast majority of cases were adjudicated within two years. However, there was a curvilinear (U-shaped) relationship between detention and adjudication within two years among bookings. Among those booked and released, 94.2% of the cases were adjudicated within two years, and 96.6% of those detained the entire pretrial period were adjudicated within two years. However, those who were detained, but not for the entire pretrial period, were significantly less likely to be adjudicated than either those who were booked and released or those were detained the entire time; 89.5% of these cases were adjudicated within two years.

Figure VI.1 Custody Status and Adjudication by Time Detained and Court Venue



We found the same curvilinear relationship when we examined the data by court venue. Here we compared those with any district court case (district court only and those heard in both district and magistrate court) to those heard by the magistrate court only. The pattern was more distinct for cases heard only in magistrate court. Among those not detained, nearly all (99.5%) of magistrate cases involving individuals who were detained the entire pretrial period were resolved within two years, and 96.6% of cases involving individuals booked and released were adjudicated within two years. Among those detained for some time, 94.4% of magistrate cases were resolved.

There was a very slight difference in adjudication rates among those booked and released and those detained some period of time (but not the entire pretrial period) among district court cases (78% of those booked and released and 77.4% of those detained some period of time). A much greater proportion (87.8%) of cases were resolved within two years among those who were detained the entire pretrial period. Overall, the cases of those detained the entire pretrial period were most likely to be adjudicated within two years.

Days to disposition by custody status pretrial

Consistent with the results above, we found the mean and median number of days to disposition for all cases adjudicated within two years was highest for those detained for some, but not all, of the pretrial detention time. Interestingly, when we examine time to disposition by magistrate only cases compared to those with any district court involvement, both the mean and median time to adjudication decreases with increasing periods of detention. However, these results are consistent with those above, which indicated that the cases of those detained the entire pretrial period were more likely to be adjudicated within two years.

Table VI.1 Time to Disposition by Period Detained and Court Venue

	All cases			District court cases			Magistrate court cases		
	Mean (s.d.)	Median	N	Mean	Median	N	Mean	Median	N
Booked and released* **	186.21 (163.72)	137.00	5,565	366.23 (170.81)	351.00	603	164.33 (147.97)	121.00	4,962
Detained some time* **	209.30 (174.48)	160.00	9,281	351.88 (170.23)	322.00	2,326	161.62 (146.98)	117.00	6,955
Detained entire time* **	84.65 (138.62)	23.00	1,594	222.27 (168.95)	192.00	345	46.63 (91.92)	16.00	1,249

***p≤.001, **p≤.01, *p<.05

Pretrial detention by adjudication status

We compared the length of pretrial detention by adjudication status. When court type was not considered, those whose cases were adjudicated within six months spent the shortest time detained, with an average of 7 days and median of 1 day. The average number of days detained increased with increasing time to adjudication; however, the median number of days remained the same (1 day) for cases resolved within 2 years and increased thereafter. Individuals whose cases that took more than two years to resolve were detained an average of 33 days, with a median of 2 days.

We examined this by court type as well. For cases heard in district court, the average number of days detained was nearly the same for cases disposed within 6 months as those disposed within one year, and increased thereafter. However, the median number of days detained was highest for district court cases resolved within six months, and was between 3 and 4 days except for cases not yet resolved,

which had a median of 7 days. Conversely, among cases heard in magistrate court, the average number of days detained increased with increased time to disposition, while the median number of days remained at 1 except for cases not yet adjudicated (2 days).

Contrary to the results above, this indicates that on average, those whose cases were not yet disposed were detained longer. However, the median number of days detained was the same for magistrate court cases regardless of disposition status. Moreover, among district court cases, the median number of days detained was highest among cases disposed within six months. These differences suggest that among those whose cases take longer to adjudicate, some individuals were detained for long periods of time but most were not.

Table VI.2 Time Detained by Disposition and Court Venue

	All cases			District court cases			Magistrate court cases		
	Mean (s.d.)	Median	N	Mean (s.d.)	Median	N	Mean (s.d.)	Median	N
Case disposed within 6 months	7.07 (18.57)	1.00	10048	35.66 (47.65)	14.00	614	5.21 (12.78)	1.00	9434
Case disposed 6 months to 1 year	16.34 (48.44)	1.00	3754	35.58 (71.47)	4.00	1342	5.63 (22.14)	1.00	2412
Case disposed 1 to 2 years	22.92 (79.54)	1.00	2638	40.23 (105.86)	3.00	1318	5.64 (29.36)	1.00	1320
Case disposed over 2 years	31.93 (122.27)	2.00	952	44.10 (144.90)	3.00	661	4.30 (11.89)	1.00	291
Case not yet disposed	33.56 (138.20)	3.00	538	61.09 (198.03)	7.00	237	11.89 (47.62)	2.00	301

Relative influence of legal and extralegal variables on adjudication

In order to assess whether pretrial detention is related to adjudication once other factors are considered, we calculated a series of nested logistic regression models. The baseline model includes only demographics, the second model adds current offense information, the third includes prior offense information, and the last includes the number of days detained pretrial.[14] The model summaries

[14] A summary of the bivariate relationship between adjudication and each of the variables in this model is available in Appendix G.

indicate that the inclusion of each additional set of variables did significantly improve the overall model (See Appendix H for the results of each step in the model). In addition, we calculated the models separately for those cases involving district court compared to those heard only in magistrate court. The results from the final models are below.

When all cases are considered, relative to White defendants, cases involving Hispanic defendants were significantly less likely to be adjudicated within two years. Conversely, those involving Native Americans were significantly more likely to be adjudicated. Cases heard in district court involving Hispanic defendants were less likely to be adjudicated within two years than cases involving White defendants. We found no substantive differences when we excluded Sandoval and Colfax counties. Further, cases involving male defendants were slightly more likely to be adjudicated within two years if they involved district court. However, we found no significant demographic differences among cases heard only in magistrate court.

We also found that some offenses were more likely to be adjudicated within two years. Relative to violent offenses, DWI, public order, and other offenses were significantly more likely to be adjudicated. However, when we limited the data to court type, we found that among district court cases, only those involving DWI were significantly more likely to be disposed of within two years compared to cases involving a violent offense. In magistrate court, all offense types were more likely than violent offenses to be adjudicated within two years. Property offenses, for example, were four times more likely than violent offenses to be disposed within two years. When we examined all cases, those involving a felony were significantly less likely than misdemeanor cases to be adjudicated within two years. As might be expected, felony status was not a significant predictor of adjudication in cases involving district court. However, felonies were 1.6 times as likely to be adjudicated if they were heard in magistrate court.

We included prior criminal history in the multivariate model since felony arrests and prior FTAs were significantly related to adjudication in the bivariate analyses. The results below indicate that having a prior violent offense or an FTA was significantly related to the likelihood of adjudication. There was some variation by court type though. Among district court cases, having a prior FTA significantly increased the odds of adjudication within two years, but prior offenses did not have a statistically significant effect. Conversely, among magistrate court cases, having a prior arrest for a violent offense significantly increased the odds of adjudication. While it is not clear why criminal history would play a role in the likelihood of adjudication within two years, it could be that those with prior offenses or FTAs were more likely to plea to the charges.

Importantly, pretrial detention was significantly related to adjudication, even after other variables were taken into account. The longer individuals remained detained, the less likely it was that their case would be adjudicated within two years. This variable was a significant predictor of adjudication when we considered all cases together, and when we considered cases by court venue.

Table VI.3 Logistic Regression Results: Adjudication within Two Years All Cases and by Court Venue

		All cases	District court	Magistrate court
Demographics	**Age**	1.001	0.997	1.007
	Race (white omitted)			
	Hispanic	0.784***	0.622***	0.946
	Native American	1.230*	1.253	0.985
	Other	0.864	0.906	0.880
	Gender (female omitted)			
	Male	1.086	1.201*	0.948
Current offense	**Most serious offense (violent omitted)**			
	Property	1.043	0.967	4.020***
	Drug	1.003	1.017	3.337***
	DWI	1.274**	1.694***	1.679***
	Public order	1.628***	1.406	1.789***
	Other	1.675**	1.902	1.713*
	Felony (non-felony omitted)	0.390***	1.136	1.555***
Prior offense	**Prior arrests**			
	Number prior felony arrests	1.004	1.007	1.098
	Prior violent offense (non-violent reference)	1.227**	1.172	1.461**
	Prior FTA	1.237**	1.611***	0.772
Pretrial detention	**Pretrial detention days**	0.998***	0.999**	0.994***
Model Summaries	**Constant**	14.321	3.325	12.190
	N	17,925	4,171	13,754
	-2LL model 1 (df)	10199.836 (5)	4294.574 (5)	4879.707 (5)
	-2LL model 2 (df)	9748.874 (6)	4278.438 (6)	4786.714 (6)
	-2LL model 3 (df)	9731.714(3)	4258.056 (3)	4765.634 (3)
	-2LL model 4 (df)	9687.052 (1)	4251.268 (1)	4753.953 (1)
	Cox & Snell R square model 4	0.032	0.022	0.009
	Nagelkerke R Square model 4	0.073	0.034	0.031
	% correct model 4	91.8%	78.5%	95.7%

***p≤.001, **p≤.01, *p<.05

Length of time to adjudication

As with the analyses above, we computed several multivariate models to assess time to adjudication. We calculated models with all cases, cases heard in district court, and cases heard in magistrate court only. The results are displayed in Table VI.4 below.

We found a significant relationship between each of the demographic variables and time to adjudication in the models that included all cases and magistrate court cases. Time to adjudication decreased with age, was significantly shorter for Hispanics and Native Americans relative to Whites, and was shorter for males compared to females. It is notable that the standardized coefficient for Native Americans is relatively large. This indicates that of the demographic variables, Native American was most strongly related to decreased time to adjudication. Further, of the demographic variables, the only significant predictor of time to adjudication among district court cases was Native American.

When we calculated the models excluding Sandoval and Colfax counties, we found that when we considered all cases regardless of venue, time to adjudication was still significantly shorter for Hispanics relative to White defendants, though less so ($p \leq .05$). Further, there were no significant differences between Hispanics and Whites when the data were limited to magistrate court cases.

Offense type was also a significant predictor of time to adjudication. In the overall model, relative to those with a violent offense, the time to adjudication was significantly longer for those with a drug or DWI offense. Conversely, public order infractions were likely to be disposed of more quickly than violent offenses. Felony cases were more likely to take significantly longer to adjudicate than misdemeanors.

However, among cases disposed of in district court, only property crime was a significant predictor of time to adjudication. Relative to those with a violent offense, cases involving a property offense were more likely to be adjudicated sooner. However, among magistrate court cases, DWI cases were associated with a longer time to adjudication relative to violent offenses, while all other offenses were associated with a significantly shorter time to disposition. Further, in magistrate court, offenses involving a felony were more likely to be adjudicated more quickly than misdemeanors. This variable was not a significant predictor of time to adjudication in the district court case model.

We did find some evidence of a relationship between prior offenses and time to adjudication as well. Prior FTA was significantly related to time to adjudication in the overall model and the district court model, though only marginally so. The coefficient indicates that time to adjudication was shorter for those with a prior FTA. Among magistrate court cases, prior felony arrests were a significant predictor of time to adjudication: a greater number of prior felony arrests predicted a shorter time to adjudication.

Even after all of these variables were included in the models, pretrial detention time was a significant predictor of time to adjudication. The longer a defendant was detained, the longer the time to adjudication. This variable was significant in all models, regardless of court venue.

Table VI.4 Multiple Regression Results: Time to Adjudication All Cases and by Court Venue

		All Cases	Only District Cases	Only Magistrate Cases
Demographics	**Age**	-0.024***	0.004	-0.035***
	Race (White omitted)			
	Hispanic	-0.044***†	-0.005	-0.037***‡
	Native American	-0.113***	-0.091***	-0.091***
	Other	-0.012	-0.010	-0.012
	Gender (Female omitted)			
	Male	-0.021**	-0.027	-0.020*
Current offense information	**Current offense (Violent omitted)**			
	Property	0.008	-0.058**	-0.032***
	Drug	0.045***	-0.011	-0.018*‡
	DWI	0.101***	-0.009	0.079***
	Public order	-0.045***	-0.023	-0.060***
	Other	0.014	-0.010	0.021*
	Degree (Misdemeanor omitted)			
	Felony	0.146***	0.027	-0.160***
Prior offense	**Number prior felony arrests**	0.000	0.011	-0.027**
	Prior violent offense (no omitted)	-0.004	-0.014	-0.016
	Prior FTA (no omitted)	-0.020*‡	-0.037*‡	-0.006
Pretrial detention	**Pretrial detention days**	0.121***	0.037*	0.031***
Model summary	**N**	16,433	3,272	13,161
	R-square	0.071	0.015	0.054
	Adjusted R-square	0.070	0.011	0.053
	F-test	83.085***	3.345***	50.324***

***p≤.001, **p≤.01, *p≤.05

† When we excluded Sandoval and Colfax counties, this significance level declined to p≤.05

‡ When we excluded Sandoval and Colfax counties, this was no longer statistically significant

Conviction and pretrial detention

Finally, we explored whether pretrial detention was associated with conviction. We found a statistically significant relationship between pretrial detention and conviction.[15] Individuals who were convicted spent a much longer time in pretrial detention on average than those whose cases were dismissed or acquitted. However, the median time was the same: just one day.

This varied, though, by court venue. Among cases that were disposed in magistrate court, the mean number of days detained was five and the median was one, regardless of whether the case resulted in a conviction. Among cases with any district court involvement, those who were not convicted spent a shorter time detained (30 days on average) than those who were convicted (38 days on average). The

[15] Conviction is defined as any finding of guilt.

median number of days detained was also greater for those convicted: six days versus three for those not convicted.

Table VI.5 Time Detained by Conviction Status

	All cases		District court cases		Magistrate court cases	
	Mean (s.d.)	Median	Mean (s.d.)	Median	Mean (s.d.)	Median
Not Convicted	7.73 (32.004)	1.00	30.21 (83.678)	3.00	5.46 (19.185)	1.00
Convicted	14.02 (46.385)	1.00	38.49 (81.563)	6.00	5.19 (15.064)	1.00

In Table VI.6 below, we compare conviction status by whether the individual was booked and released, detained for some time, or detained the entire pretrial period. Those detained during the entire pretrial period were much more likely to be convicted than those who were booked and released or detained for some time. Further, the likelihood of conviction was higher for those who were detained pretrial regardless of court venue. Nearly all (93%) of those whose cases were heard in district court and were detained the entire pretrial period were convicted, and 69% of similarly situated individuals in magistrate court were convicted. Overall, 75% of individuals detained the entire pretrial period were convicted.

Table VI.6 Conviction Status by Detention Period and Court Venue

		Booked and released	Detained some time	Detained entire time
All Cases* **	**Convicted**	56.6%	57.5%	74.5%
	N	5,565	9281	1594
Magistrate Court* **	**Convicted**	54.2%	50.1%	69.3%
	N	4,953	6,940	1,243
District Court* **	**Convicted**	76.9%	79.6%	92.7%
	N	577	2,244	331

p≤.001

Finally, we examined the influence of the length of pretrial detention on conviction after controlling for various legal and extralegal variables. The results of the multivariate models, calculated for all cases, cases involving district court, and magistrate court cases only, are displayed in Table VI.7 below. We found several demographic variables were significantly related to the likelihood of conviction. Older individuals were significantly less likely to be convicted regardless of court venue. Relative to White defendants, Hispanic and Native American defendants were significantly less likely to be convicted in all cases and among magistrate court cases. However, race was not a significant predictor of conviction in the district court model. We found no differences with respect to Hispanic ethnicity when we excluded Colfax and Sandoval counties. Finally, in all three models, men were significantly more likely to be convicted than women.

Relative to cases involving a violent crime as the most serious offense, cases involving a DWI were significantly more likely to result in conviction regardless of court venue. Indeed, the odds of conviction

were five times higher for cases involving a DWI than a violent crime for all cases and for cases heard in magistrate court. Further, the log-odds of conviction were significantly higher for all types of offenses except "other" offenses when all case types were considered. However, when we limited the model to include district court cases only, the log-odds of conviction were significantly higher only for property crimes and DWI. Among magistrate court cases, all types of offenses were significantly more likely than violent crimes to result in conviction. Whether the case involved a felony was a significant predictor of conviction for cases overall. However, this variable was not statistically significant for either the district court model or the magistrate court model.

We found the number of prior felony arrests was a marginally significant predictor of conviction in cases overall. However, the likelihood of conviction increased by 12% (or 1.12 times) for every prior felony arrest in the district court model. However, this variable was not a significant predictor of conviction in the magistrate court model. Moreover, whether the individual had a prior violent offense or FTA did not significantly increase the odds of conviction in any model.

Lastly, in all models, the odds of conviction were significantly higher for those who were detained pretrial. Among all court cases, the odds of conviction increase by 1.005 times for each additional day someone was detained once other factors are taken into account. Thus, for example, someone who was detained for 10 days would have a 5% greater chance of being convicted than someone booked and released. While pretrial detention was statistically significant in both the magistrate and district court models, it was only marginally so.

Table VI.7 Whether Convicted Among Cases Disposed Within Two Years

		All cases	District court cases conviction	Magistrate court conviction
Demographics	**Age**	0.995***	0.991**	0.996*
	Race (white omitted)			
	Hispanic	0.851***	0.856	0.860***
	Native American	0.677***	0.856	0.718***
	Other	1.170	1.075	1.175
	Gender (female omitted)			
	Male	1.123**	1.207*	1.140**
Current offense	**Most serious offense (violent omitted)**			
	Property	1.605***	1.319**	1.452***
	Drug	1.652***	1.195	1.491***
	DWI	5.027***	2.111***	5.027***
	Public order	1.660	0.674	1.133*
	Other	1.096***	0.649	1.777***
	Degree (misdemeanor omitted)			
	Felony	1.663***	1.277	0.938
Prior offense	**Number prior felony arrests**	1.016*‡	1.122***	0.989
	Prior violent offense (no omitted)	0.950	0.983	0.928
	Prior FTA (no omitted)	0.978	1.127	0.992
Pretrial detention	**Pretrial detention days**	1.005***	1.001*	1.002*
Model Summary	**Constant**	0.861	2.763	0.285
	N	16,435	3,273	13,162
	-2LL model 1 (df)	22196.173 (5)	3232.999 (5)	18153.087 (5)
	-2LL model 2 (df)	20762.613 (6)	3203.640 (6)	16894.693 (6)
	-2LL model 3 (df)	20785.226(3)	3181.943 (3)	16889.504 (3)
	-2LL model 4 (df)	20695.193 (1)	3175.635 (1)	16885.689 (1)
	Cox & Snell R square model 4	0.091	0.021	0.094
	Nagelkerke R Square model 4	0.123	0.034	0.125
	% correct model 4	64.0%	80.4%	62.4%

***p≤.001, **p≤.01, *p≤.05

VII. Conclusion

The objectives of this study were to compile case processing statistics, explore pretrial detention time and the characteristics of those detained pretrial, and examine whether pretrial detention as well as other legal and extra-legal factors influence case outcomes. In this section, we describe the findings and discuss their implications. We also offer suggestions for future research and conclude with the study limitations.

Case processing and performance measures

One of the possible reasons for unnecessary pretrial detention time is a delay in case processing. In this study, we chose to focus on case processing performance measures that are not currently utilized by the courts, and used different methodologies to assess measures currently used (e.g., using booking date rather than filing date when measuring time to adjudication). It is important to understand whether these measures could provide information that would be meaningful to stakeholders when considering pretrial detention.

Cases accepted for prosecution

We began by exploring the proportion of *cases accepted for prosecution* among those booked on a new charge. While not a measure of the performance of the courts, it is important to understand how many cases are accepted or rejected for prosecution. Additionally, it could be indicative of police performance- whether those arrested and booked for a crime were justly detained. In order to construct this measure, we limited the data to the first booking in each county for a new offense. We tracked cases that were within the same county as the booking incident, and found a definitive match for 55% of the cases overall (72% of felony-level cases and 50% of misdemeanor-level cases). However, these figures likely underestimate the true number of cases accepted for prosecution since we did not include cases that were tried in other counties or cases tried in municipal court. Thus, more information is needed to successfully construct this measure.

Time to case filing

Next, we examined *time to case filing* from two points: the offense date and the booking date. New Mexico requires that charges to be filed against a defendant within particular time frames, which vary depending on whether the case is a felony or misdemeanor. The shortest time is one year for petty misdemeanors, two years for misdemeanors, and up to three years for felonies (though there are exceptions). For most cases, the median time between the offense date and filing date was 2 days. However, the median time was much longer for cases involving district court only (93 days), while cases first heard in magistrate court then bound over to district court were filed more quickly (57 days). Despite these differences, these results indicate that the filing dates occurred well within the guidelines for most cases.

We also examined the time from booking to case filing. While we expected cases would be filed after booking, in 28% of cases, the case was filed before booking occurred. This occurred more often for individuals with felony-level offenses (18%) than those with only misdemeanors (9%). There are two possible reasons for these findings. First, individuals may have been booked as the result of a grand jury indictment rather than during an arrest. Second, there may have been an underlying magistrate court

case we did not discover. In the case of the latter, we would have used the filing date from the magistrate court as the first filing date that may have been the same or subsequent to the booking.

New Mexico rules govern how quickly a case must be filed depending on whether the defendant is in custody. Consistent with these rules, among those booked prior to case filing, the time between booking and filing was significantly shorter for individuals who were in custody at the time of filing. The greatest delays were among those whose cases were heard only in district court, where the median number of days between booking and filing was 13 days, whereas it was only two days for cases originating in magistrate court.

Time to adjudication and rates of disposition

Besides assessing whether New Mexico district attorneys comply with recommended timelines for filing charges, we also examined *time to adjudication*. We first explored which date best represents time in the system: booking date or case filing date. The time to adjudication is likely underestimated for cases processed through district court when the filing date is used, so the booking date would be more accurate. However, for cases heard only in magistrate court, the filing date better reflects time in the criminal justice system for most cases. Therefore, the best measure of time in the criminal justice system would be to use whichever date is first.

Next, we assessed time to adjudication using the earliest date as the beginning point. We examined adjudication rates both at the case level and by booking, since some bookings were associated with multiple cases. At the case level, we found that the median number of days to disposition for magistrate court cases was 83 days from either booking or filing date, whichever was first. The median number of days to disposition was 301 days for cases heard in district court.

Even though some bookings were associated with multiple cases, the vast majority of cases were resolved within two years. As would be expected, cases involving only the magistrate court were resolved more quickly. Nearly 70% were adjudicated within six months, while 14% took more than one year to resolve. Most cases involving district court, both those initiated in district court and those bound over from magistrate court, took between one and two years to resolve.

Conviction rates

Most cases (59%) resulted in the conviction of the defendant; cases involving district court were much more likely to result in conviction (80%) than those heard in magistrate court only (54%). The AOC currently reports these measures as well, and does so by offense type, but only for those cases within each year. In addition to these case processing statistics, we also calculated the proportion of defendants who were sentenced to any incarceration versus probation only. This measure was somewhat flawed as we could not take into account whether the entire incarceration portion of the sentence was suspended. Among those sentenced to incarceration, future research should further differentiate how much time is suspended and how much time must be served.

Pretrial detention

The primary purpose of this research was to explore pretrial detention. We began by examining the extent of pretrial detention. The vast majority of people booked were released quickly; indeed, the volume of people flowing through our detention centers each year is somewhat astounding. However, a small proportion of individuals spend a relatively long time detained. Among the 9% of individuals held for the entire pretrial period, the median number of days detained was 17, compared to 1 day overall. These differences were greatly magnified for individuals whose cases were heard in district court compared to magistrate court only.

Length of time detained also varied by county. The median number of days detained for those booked into the Colfax County Detention Center was higher than other detention centers overall. However, among those detained the entire pretrial period, those booked in Colfax County were detained the shortest period of time. Conversely, those booked into the Doña Ana Detention Center were held for the shortest amount of time (a median of 0 days). However, among those detained the entire pretrial period, detainees in Doña Ana were detained the longest period of time (a median of nearly 38 days). Overall, then, most individuals are released within a short time frame. However, those who are not quickly released tend to remain in jail for a relatively long period of time.

Factors associated with pretrial detention

The results of both the bivariate and multivariate analyses indicated that both *legal and extralegal factors* predicted *whether someone is detained pretrial* and *the length of pretrial detention.* We found significant relationships between demographic variables and pretrial detention. Although older individuals were significantly more likely to be detained pretrial, age did not play a significant role in the length of pretrial detention. Males were both more likely to be detained and to be detained for longer periods of time, even after other factors including current offense and criminal history were taken into account.

Native Americans were significantly more likely than Whites to be detained pretrial, regardless of court venue. We did not detect any other significant differences by race or ethnicity regarding whether or not a defendant was detained. We also found that the length of pretrial detention did not differ by race for cases overall or for cases involving district court. On the other hand, we did find significant differences among cases involving magistrate court only. The analyses indicated that Native Americans were likely to spend a significantly longer period in pretrial detention relative to Whites, while Hispanic defendants were likely to spend a significantly shorter time than Whites in pretrial detention.

Because the relationship between race and pretrial detention may reflect the racial composition of counties and county practices rather than race itself, we calculated the models controlling for county. We also calculated individual models for each county. When controlling for county, we found the same results. Further, when we calculated each model by county, we found that the relationship held for seven of the nine counties. Thus, we feel confident that these findings are not unduly influenced by one or two jurisdictions.

Current offense severity and offense history variables were statistically significant in all models. These legal variables influenced whether someone was detained pretrial and the length of detention. In general, those accused of a violent offense were both more likely to be detained and were detained for longer periods of time. Although property offenders were no less likely to be detained than violent offenders overall, they were slightly more likely to be detained if the case was heard in district court. However, violent offenders were still significantly more likely to spend a longer time in jail. Individuals facing felony charges were both more likely to be detained and to spend a longer period in jail than those with misdemeanor offenses.

Criminal history also played a role in both the decision to detain and the length of detainment even after other variables were taken into account. Those with any type of prior offense measured (felony arrest, violent crime, or prior FTA) were more likely to be detained. The length of detention was significantly longer for those with prior felony arrests, and for those with a prior violent offense. However, the length of detention was shorter for those with a prior FTA than those who did not have a prior FTA.

We also explored the relationship between bond amount and pretrial detention among the seven counties for whom we had bond data. While did not find any indication that bond amount influenced whether someone was detained, it was a significant predictor of length of detention. As would be expected, those with a larger bond amount were more likely to remain in jail longer.

Overall, these analyses confirmed legal variables were significant predictors of whether a person was detained pretrial, the length of pretrial detention, or both. Given that judges are required to consider factors such as character history, the nature of the crime, and likelihood to appear in court, it is perhaps not surprising that offense severity and offense history would be associated with pretrial detainment. Further, the model coefficients suggest that offense severity (i.e., felony) is among the most influential variables associated with pretrial detention. Although a prior FTA was not related to length of detention, it did increase the odds of being detained.

Success during pretrial period

Important measures of judicial decision-making regarding pretrial release are whether those who are released pretrial appear in court, and whether they refrain from committing new offenses while released. We found relatively high rates of both new offenses and FTAs, particularly among defendants tried in district court where 37% experienced an FTA and/or new offense. These rates were much lower for those whose cases were heard only in magistrate court (15%). Among those who were arrested for a new offense, the most common offense type was a property offense for those whose cases heard in district court and overall (when all cases were pooled together). However, those whose cases were heard only in magistrate court were more often arrested for public order offense during the pretrial period.

Influence of pretrial detention on adjudication

We examined the relationship between pretrial detention and adjudication in multiple ways. First, we assessed the proportion of cases adjudicated within two years by detention status (detained the entire pretrial period, part of the pretrial period, or none of the pretrial period). These bivariate analyses

suggest that adjudication within two years is more likely for individuals detained for either the entire pretrial period or none of the pretrial period. Conversely, a smaller proportion of cases were adjudicated when the individual was detained, but not for the entire pretrial period. Further, the average number of days to adjudication was shortest for those detained the entire pretrial period; this was true regardless of court venue.

We also examined length of pretrial detention by whether the case was adjudicated within two years. We found that the longer it takes to adjudicate someone, the longer the average time detained. These findings may seem to contradict with the findings above, which indicate that most cases involving individuals detained the entire pretrial period are disposed within two years. These differences are due to several factors. First, most cases are resolved within a relatively short period of time (one year or less). Additionally, many of those detained the entire pretrial period involve cases that are all resolved within a short relatively short time. However, there are some individuals whose cases take a long time to resolve and who are detained most or the entire pretrial time. Thus, this relationship is influenced by those who both are detained for a long time and whose cases take a relatively long time to resolve.

Multivariate analysis results indicate that the length of pretrial detention was a significant predictor of whether a case was resolved within two years, even after other variables are taken into account. Specifically, the greater the number of days detained, the less likely it is that the case will be resolved within two years confirming the bivariate analyses. This relationship held in the model including all cases, as well as those by court venue. In addition to pretrial detention, we found that DWI cases were significantly more likely to be disposed of within two years compared to cases involving a violent crime in all three models. Other variables were significant only in specific models. For example, in the model involving all cases and those heard in district court, cases involving Hispanic defendants were significantly less likely to be resolved within two years. In cases involving only the magistrate court, cases involving all offense types were significantly more likely to be resolved within two years than cases involving violent crimes.

In the models assessing time to adjudication, we confirmed that time detained significantly increased the time to adjudication, even after controlling for important legal variables such as current and prior offense. Further, this variable was statistically significant in all models, though the relationship was less strong in the model which included cases heard in district court.

Influence of pretrial detention on conviction

The influence of pretrial detention on conviction is important. The bivariate analyses indicated that those detained the entire time were significantly more likely to be convicted. Further, in multivariate models, we found the length of pretrial detention did increase the odds of conviction in all models. However, we also found current offense and demographics were significantly related to odds of conviction. In particular, individuals charged with a DWI were much more likely to be convicted than those charged with a violent offense. Further, younger individuals and males were significantly more likely to be convicted. Race was significant in both the model that included all cases and the magistrate only model. These models indicated that Native Americans and Hispanics were less likely to be convicted than Whites.

Discussion and recommendations

One purpose of this study was to assess whether using the date of filing underestimates time in the criminal justice system, and if so, by how much. We found that it varies by court venue. We examined the time to case filing from offense date and from booking date. The court does not currently measure time to case filing from either offense or booking date, but it is important to do so as there are rules that guide how quickly a case must be filed from these dates. Our results suggest that the time to case filing by either measure is well within the guidelines, though there are some that exceed those guidelines. However, this could change considering that the data were not detailed enough to determine whether those cases that exceed the guidelines are due to acceptable reasons. Thus, we recommend the AOC explore the feasibility of constructing measures of time to case filing from offense date, and from booking date if the booking precedes the filing date.

In addition, we assessed the time to disposition from booking date and from filing date. Currently, the AOC examines time to disposition from case filing. Their disposition rates measure the number of resolved cases compared to the number of filed, reopened, or cases pending at the beginning of the year. Thus, the disposition rate can exceed 100%, which would indicate that the court caught up with any backlog in cases over the year. They provide details describing the number of cases by offense and other categories for each jurisdiction, at both the district and magistrate levels. They also report the number of cases that are pending for up to six months, over six months, and that are inactive due to a bench warrant. We tracked all cases from the date they were opened or booked to their disposition. Thus, our methodology differs from the AOC.

For district court cases, especially those that began in magistrate court, we found that using the filing date underestimates the amount of time that individuals spend in the criminal justice system. While the district court clearly cannot be held accountable for the time it takes for the case to be bound over, it is important to understand how much time people really spend awaiting disposition. This delay between magistrate and district court case filing can be substantial for some people.

While the ideal scenario would be to use the date that is first (booking or filing), we understand that may not be feasible at this time. The most notable difference in total time in the system is for cases that are bound over from the magistrate court. In order to create a more representative measure of time from the origination of a case to its disposition, we suggest that the filing date from the magistrate court case be used if the case is bound over to district court. At the same time, it is important to understand whether court processing times are changing, and if so, at what point. In addition to the overall time to adjudication from first court case filing, it is important to continue monitoring time to disposition by court venue.

Besides assessing whether the filing date is the best measure of performance, we also wanted to understand time to disposition because of its potential impact on pretrial detention. In 2014, the New Mexico Supreme Court passed a rule which governs how quickly cases must be processed. It was passed in order to ameliorate the problems of overcrowding at the Bernalillo County Metropolitan Detention Center, and applies only to Bernalillo County. One of the problems this rule is meant to address is time to disposition. Here, we found the median time to disposition from the filing date for district-level cases

was 235 days, or just under eight months. Moreover, we found that for many cases, this does not capture actual time in the system. The majority of district-level cases we found were bound over from the magistrate court. Thus, the actual time in the system for these cases is about 35 days longer with time in magistrate court taken into consideration. However, the mean number of days for the magistrate portion is 109 days. This indicates that for some people, the time it takes for the case to be disposed in magistrate court is actually much longer.

Further, though most people were not detained pretrial, some were detained for a long period of time. Moreover, there was an association between pretrial detention and the time to disposition. While the cases of those detained the entire pretrial period were more likely to be disposed of more quickly, the longer a defendant was detained, the longer the time to adjudication. These results indicate that delays in case processing result in longer pretrial detention for some individuals. This could be due to the severity and complexity of these cases. Though we did control for offense degree and type, the inclusion of other variables such as number of charges may reflect case complexity more completely.

We sought to understand which, if any, legal and extralegal factors predict pretrial detention decision-making and the length of pretrial detention. The results indicate that judges do take into account, and heavily weigh, legal variables when making decisions about pretrial detention. In particular, the severity of the current offense was a consistent predictor of both whether someone was detained and for how long. Further, the number of prior arrests was a significant and consistent predictor of these outcomes. However, even after controlling for these factors in multivariate models, demographic characteristics such as age, gender, and race still play some role in both pretrial detention and the length of pretrial detention, though these were not consistent predictors in every model.

Concerns about ensuring appropriate bond amounts are at the forefront in New Mexico currently. While this study focused on pretrial detention, we did consider the role the amount of bond required plays in pretrial detention. We found that even after other variables are considered including criminal history and prior failure to appear, a larger bond predicts longer detention. However, it is possible that judges order larger bonds in cases where the initial evidence suggests that the person is guilty of a serious offense. Further research is required to delve into this relationship.

We also examined failure rates among those released pretrial. We found more than one-third of those whose cases were heard in district court ultimately failed in some way, either by committing a new offense or by failing to appear.

Together, these findings suggest that the use of a pretrial risk assessment may help. A risk assessment could minimize the influence of extralegal variables in pretrial decision making. Further, it could help identify those who are unlikely to comply with pretrial conditions, particularly for those facing more serious charges. Moreover, it may reduce the amount of time individuals spend detained pretrial, particularly among those where the time to disposition is above average.

If a pretrial risk needs assessment were adopted, it would be important to evaluate whether the instrument improves pretrial detention decision-making. One way to do that would be to track

measures of compliance (e.g., new arrests and failure to appear at court) both before the instrument was adopted and afterwards. To our knowledge, these measures are not being tracked currently.

The influence of pretrial detention on conviction is an important one. The length of pretrial detention significantly increased the odds of conviction. However, this does not necessarily mean that those who are detained longer will be convicted unfairly. Instead, there may be other factors at play that we were not able to measure. For example, it is possible that those who are detained for a longer period of time are more likely to be guilty or there is a stronger case against them. Indeed, one of the guidelines for judges when determining whether to detain someone is to consider the likelihood that they are guilty. It could be, though, that those detained for a longer pretrial period are more likely to appear guilty and are therefore convicted. Unfortunately, we cannot determine the guilt or innocence of the individual, only whether they are detained.

Finally, while the focus of this study was on the influence of pretrial detention, it is important to point out that demographic characteristics were significantly related to many of the outcomes we examined, including the likelihood of detention, the length of detention, time to adjudication, and the likelihood of conviction. In particular, the odds of conviction were significantly higher for younger people and males in all models. It is important to consider that these were significant even after legal variables were included. This suggests that there may be differential treatment of individuals based on their demographic characteristics, further demonstrating the need for an objective method to assess pretrial risk.

Study limitations and future research

As with any research study, there were limitations associated with this study that should be considered when interpreting the results. One of the objectives of this study was to determine the rate at which prosecutors accept cases among those booked. Due to limitations matching court cases with bookings, as well as the study bounds (i.e., following cases within jurisdictions only) particularly among cases that involved only misdemeanors, we were unable to provide these rates with confidence. While this measure reflects decision-making by the prosecutor, it also is a measure of police performance. One way to improve on this measure would be to track only felony-level cases throughout all counties in New Mexico. If municipal court data were available, misdemeanor cases could also be included. If the state were interested in calculating this measure, one way to accurately assess it would be to ensure each detention center record the court case number(s) related to the booking. Ideally, the case numbers would be formatted to correspond to that used by the AOC.

It is likely that the time detained pretrial is underestimated for some people. We calculated pretrial detention based on the time spent within a single facility for a single consecutive period of time. Therefore, any time that people spent in other facilities during the pretrial period would not be included. While we did observe movement from one detention center to another with the data we received, we chose not to track people across detention centers since we did not have all detention centers across the state. Second, some people were booked, released, and rebooked on a different day. We did not include that time detained unless the booking dates were successive. We did not include this because there were too many cases to determine whether subsequent bookings were related to the

booking included in our sample. Further, the booking data included a two-year period; some people could have been booked after the data were pulled.

While we attempted to include variables that are likely to be related to the outcomes of interest, it is likely that important variables were not included. One of the variables that is likely to be associated with pretrial detention as well as case outcomes is assessed level of risk. However, New Mexico does not currently administer Risk Needs Assessments to individuals pretrial. Although we have included variables such as prior offenses that are likely associated with risk, we cannot differentiate between those who are low, medium, or high risk. This is important as studies (e.g.,Subramian et al) indicate that the impact of detention on low-risk individuals exacerbates negative outcomes, but whether this is also true for medium to high-risk detainees is unknown. Future studies should include risk and its interaction with pretrial detention as a factor in assessing case outcomes.

Although most detention centers provided us with information about bond, we did not receive the amount of bond from all counties. Further, in some cases, it was not clear that the amount of bond required was actually associated with that particular booking. Future studies should explore the impact of bond on case outcomes and pretrial detention in greater depth.

Finally, an important predictor of pretrial detention, time to disposition, and conviction may be the complexity of the court case. Future research should explore ways to quantify this and include it in the analyses.

It is important to recognize that there are likely some errors in the data. As noted at the beginning of the report, each county gathers and records race and ethnicity differently. Some counties ask the detainee their race and ethnicity at the time of booking, thus, the race/ethnicity recorded for these counties is self-reported. However, others rely on the perceptions of the booking agent. Two counties do not record ethnicity at all.

While we did gather FTA information from the DPS arrest data, this measure is limited in two ways. First, we could not tie the FTA to the court case associated with the booking. Second, it is likely that we did not capture all of the FTAs that occurred in all of the court cases. In order to do so, we would have to have the entire event history for each case.

This study was unique in that we were able to analyze data for a very large number of bookings. However, given some of the limitations listed previously, future research should follow a smaller group of people both within and across all detention centers to calculate their true pretrial detention time. In addition, using a subsample, researchers could manually search for cases that may be related to bookings that we did not find, search court event history to gather information about FTAs in that case, as well as the amount of bail ordered. This would allow us to confirm the findings here.

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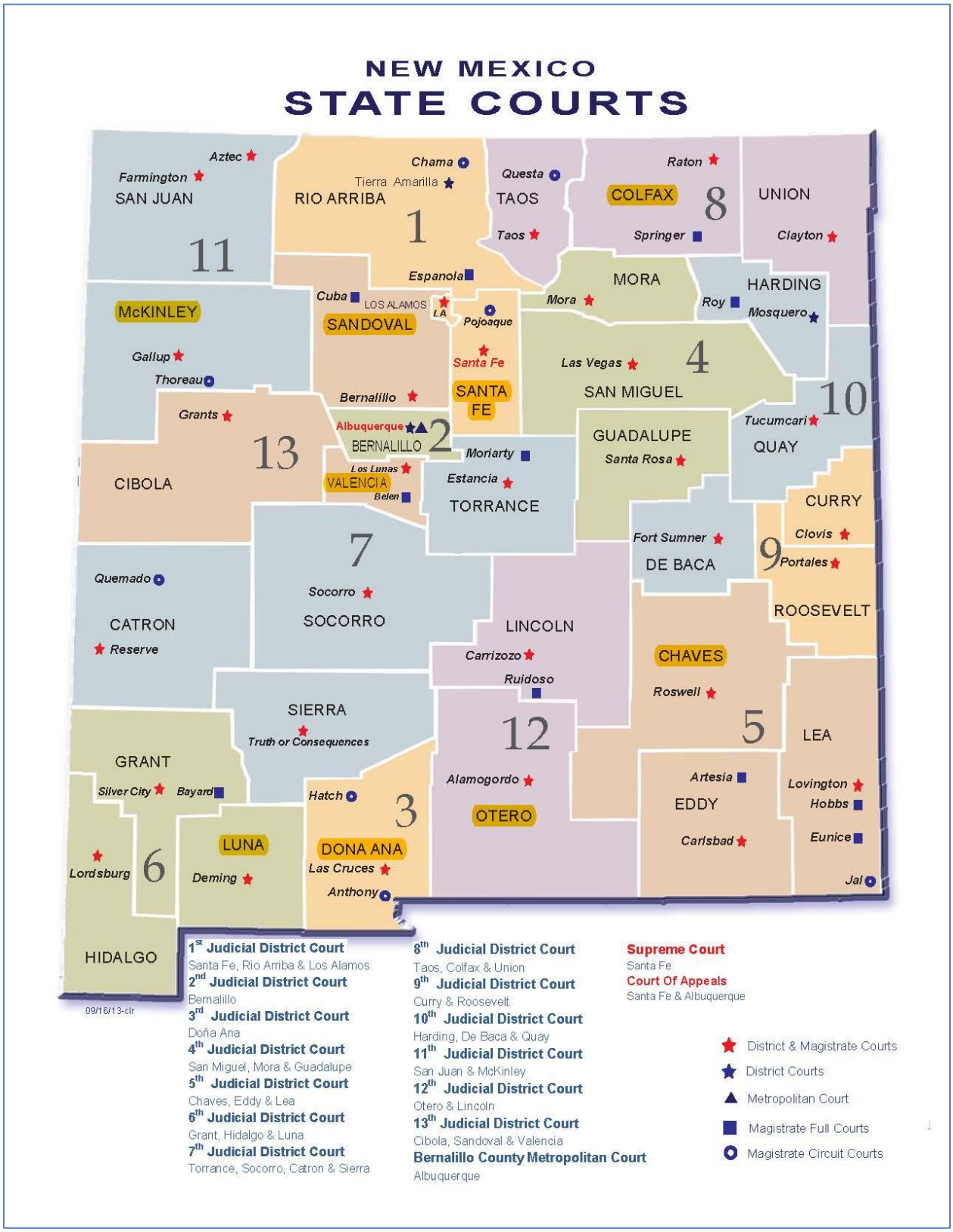
Appendices

List of Appendices

Appendix A. Map of New Mexico judicial districts



Appendix B. Description of all detainees and sample detainees

Table B.1 Characteristics of Detainees

	All detainees (by booking)	All detainees (by person)	Detainees with new charges	Detainees found in court
Age				
Mean (s.d.)	33.26 (10.94)	33.68 (11.40)	33.93 (11.58)	34.10 (11.71)
Median	31.00	31.00	31.00	32.00
N	80,379	48,643	32,320	17,930
Race				
Asian/Pacific Islander	0.2%	0.3%		
Black	3.1%	3.3%		
Native American	19.0%	18.8%	22.1%	17.3%
Hispanic	39.5%	37.7%	34.5%	37.8%
White	37.4%	38.9%	39.3%	41.2%
Other	0.2%	0.2%	4.1%	3.7%
Unknown	0.5%	0.8%	0.0%	0.0%
N	80,470	48,643	32,357	17,930
Gender				
Male	75.6%	74.4%	74.0%	75.5%
Female	24.4%	25.6%	26.0%	24.5%
N	80,466	48,639	32,357	17,930

Table B.2 County Detention Center of Detainees

	All detainees	Detainees with new charges	Detainees found in court	% found (charges filed in this county for this case)	% of felony bookings found
Chaves	11.5%	10.8%	9.5%	48.8%	81.4%
Colfax	2.0%	2.5%	2.5%	54.5%	64.1%
Doña Ana	13.2%	10.3%	15.3%	82.7%	90.2%
Luna	3.9%	2.8%	3.6%	71.1%	88.7%
McKinley	12.5%	14.7%	15.7%	59.1%	80.1%
Otero	8.0%	5.6%	7.8%	77.3%	91.4%
Sandoval	15.6%	21.0%	14.4%	37.9%	50.1%
Santa Fe	24.0%	19.8%	18.1%	50.7%	71.7%
Valencia	9.3%	12.5%	13.1%	58.1%	85.6%
N	80,470	32,357	17,930	17,930	6,041

Table B.3 Current Offense of Detainees

	All detainees (N=80,470)	Detainees with new charges (N=32,357)	Detainees found in court (N=17,930)
Current offense (booking or arrest charges)			
Violent	13.9%	22.5%	31.1%
Property	10.0%	14.0%	13.3%
Drug	6.8%	8.5%	9.6%
DWI	10.3%	19.4%	22.5%
Other	1.7%	2.1%	1.2%
Public order	32.8%	24.1%	16.9%
Probation violation only	4.5%	0.3%	0.0%
Warrant-charge unknown	7.8%	4.8%	2.6%
Serving sentence	2.3%	0%	0%
Unknown	10.0%	4.4%	2.7%
Offense severity			
Felony	18.9%	25.9%	33.7%
Misdemeanor	54.4%	62.4%	59.2%
Unknown or N/A	26.7%	11.7%	7.1%

Table B.4 Prior Offense History of Detainees

	All detainees	Detainees with new charges	Detainees found in court
Prior criminal history			
Prior arrests	23.6%	58.5%	58.3%
N	80,470	32,357	17,930
Number prior arrests			
Mean (std. dev)	4.15 (4.10)	4.15 (4.10)	4.06 (4.02)
Median	3.00	3.00	3.00
N	18,967	18,936	10,448

Appendix C. Time between booking and offense by court venue

Table C.1: Time Between Booking and Offense

		Closest Offense Date	Earliest Offense Date	Latest Offense Date
District Cases Only	Mean (Std. deviation) Median N	210.0265 (370.4605) 14 453	233.4700 (402.8290) 22 453	210.0300 (370.4600) 14 453
Magistrate Cases Only	Mean (Std. deviation) Median N	18.8275 (91.9829) 0 13,742	20.5400 (122.3170) 0 13,742	18.8800 (92.1020) 0 13,742
Both District and Magistrate	Mean (Std. deviation) Median N	34.4466 (153.3449) 0 3,717	47.9600 (251.1200) 0 3,717	36.3900 (159.4090) 0 3,717
Total	Mean (Std. deviation) Median N	27.3920 (127.0400) 0 17,912	31.6100 (172.7330) 0 17,912	27.3600 (127.1710) 0 17,912

Table C.2: Time Between Booking and Offense by County

	Mean (Std. Deviation)	Median	N
Chaves	36.6759 (156.6663)	0	1,697
Colfax	28.2295 (78.6478)	0	440
Doña Ana	13.7695 (80.9277)	0	2,742
Luna	37.2942 (267.5690)	0	639
McKinley	27.0284 (118.4035)	0	2,814
Otero	25.7455 (120.8531)	0	1,403
Sandoval	33.5545 (134.0336)	0	2,577
Santa Fe	13.1263 (87.1070)	0	3,245
Valencia	47.4947 (142.5882)	0	2,355
Total	27.3192 (127.0400)	0	17,912

Appendix D. Time between booking and filing by county

Table D.1: Timing of Booking Relative to Filing

	Booking date prior to first filing date		Booking same as first filing date		Booked after first filing date		Total N
	N	%	N	%	N	%	
Chaves	1,089	63.9%	252	14.80%	362	21.30%	1,703
Colfax	307	69.50%	39	8.8%	96	21.70%	442
Doña Ana	1,903	69.30%	602	21.90%	240	8.70%	2,745
Luna	417	65.10%	146	22.80%	78	12.20%	641
McKinley	2,230	79.20%	319	11.30%	266	9.40%	2,815
Otero	1,028	73.20%	226	16.10%	151	10.70%	1,405
Sandoval	1,763	68.40%	461	17.90%	354	13.70%	2,578
Santa Fe	2,383	73.40%	623	19.20%	240	7.40%	3,246
Valencia	1,710	72.60%	191	8.10%	454	19.30%	2,355
N (total)	12,830	71.60%	2,859	15.90%	2,241	12.50%	17,930

Table D.2: Time from Booking to Filing by County

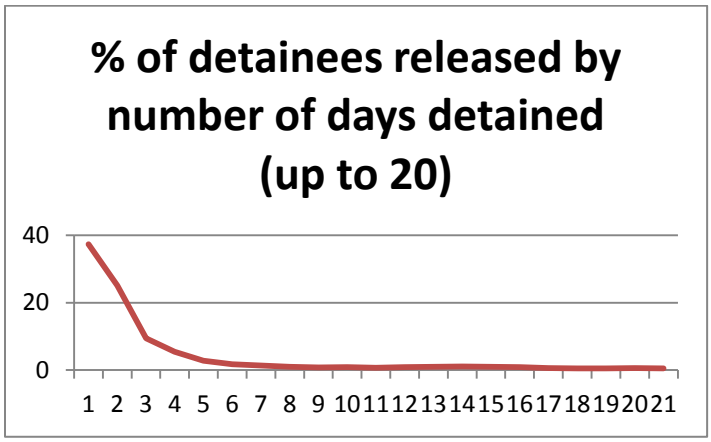
	Booking date prior to filing date				Booked after case filing			
	N	Mean	Standard deviation	Median	N	Mean	Standard deviation	Median
Chaves	1,089	4.11	17.11	2.00	362	60.67	125.22	15.00
Colfax	307	9.13	24.13	3.00	96	95.49	142.37	27.50
Doña Ana	1,903	3.43	9.75	2.00	240	34.97	61.31	10.00
Luna	417	2.47	4.53	2.00	78	90.26	159.18	19.50
McKinley	2,230	3.90	16.59	1.00	266	222.59	210.33	160.00
Otero	1,028	2.68	7.51	2.00	151	58.22	100.06	14.00
Sandoval	1,763	3.50	16.33	1.00	354	171.10	170.92	106.00
Santa Fe	2,383	2.35	8.04	1.00	240	70.97	115.94	28.00
Valencia	1,710	5.15	15.63	3.00	454	194.91	188.48	145.50
N (total)	12,830	3.65	13.73	2.00	2,241	125.24	168.74	57.00

Appendix E: Days detained using point in time versus longitudinal data

As noted in Chapter IV, we used longitudinal data rather than a snapshot to determine pretrial detention. Some stakeholders in New Mexico are familiar with the New Mexico Sentencing Commissions studies of length of stay in detention centers (2005 and 2012). They reported a median length of stay of 112 days in 2005 and 147 days in 2012 for those charged with a felony. Our reported number of days detained appears quite low by comparison. The difference is due to the methodology used.

Most people are released within a relatively short time. Using the chart in Chapter IV, we zoomed in on the first 20 days (below). As can be seen there, most people are released within a week or so. Indeed, 77% of individuals booked between 2012 and 2013 were released within one week; 89% were released within 20 days.

Figure E.1 Percentage of detainees released within 20 days



To illustrate the difference in the results when using a point in time method relative to a longitudinal study, we also calculated the median number of days individuals were detained among those in a detention center on 6/30/13. Among those arrested for a new offense and for whom we found a corresponding court case (and therefore could determine what portion of their detention was spent pretrial), and who were in the facilities on 6/30/13, the median number of days detained was 65. For a felony, the median number of days was 156. This is somewhat longer than the number of days Freeman (2012) reported for felony offenders: 147 days. Further, it is much longer than the median number of days detained when we include everyone booked for a new offense between 2012 and 2013. Overall, detainees spent a median of 1 day detained, and 4 days among those charged with a felony.

Table E.1 Median days detained among those detained on 6/30/13

	Median # days detained	N
Overall	65	341
Felony	156	249
Misdemeanor	26	91

However, these results are not directly comparable to NMSC's data because our sample is different. First, we are only looking at those with new charges. Second, these data do not necessarily include everyone who was detained on June 30, 2013. The detention centers provided data for everyone booked in 2012 or 2013. Thus, if someone were booked in 2011 and was in the facility on 6/30/13, that person's information would not be included. Therefore, the median for 2013 is likely underestimated.

Appendix F. Detention results with and without Colfax and Sandoval counties

Table F.1 Demographic Characteristics by Detention Status

	Detainees found in court		Booked and released		Detained one or more days		Average time detained	
	All counties	Without Sandoval and Colfax	All counties	Without Sandoval and Colfax	All counties	Without Sandoval and Colfax	All counties	Without Sandoval and Colfax
Native American	17.3%	17.6%	9.7%	9.2%	21.1%***	22.1%	10.35 (38.02)***	10.85 (40.42)
Hispanic	37.8%	45.0%	42.2%	48.0%	35.7%	43.4%	13.40 (56.97)	13.49 (57.08)
White	41.2%	33.8%	44.6%	39.2%	39.5%	31.0%	14.32 (57.36)	15.51 (61.31)
Other	3.7%	3.5%	3.6%	3.6%	3.8%	3.5%	18.89 (76.11)	20.75 (84.44)
N	17,930	14,910	5,907	5,159	12,023	9.751	17,930	14,910

Table F.2 Logistic Regression Results: Detained or Not

		Final model all counties	Final model without Sandoval and Colfax
Demographics only	**Age**	1.009***	1.011***
	Race (white omitted)		
	Hispanic	0.943	1.134**
	Native American	3.404***	4.132***
	Other	1.102	1.111
	Gender (female omitted)		
	Male	1.156***	1.144**
Current offense	**Current offense (Violent omitted)**		
	Property	1.088	1.043
	Drug	0.650***	0.643***
	DWI	0.463***	0.445***
	Public order	0.474***	0.438***
	Other	0.448***	0.465***
	Degree (Misdemeanor omitted)		
	Felony	2.896***	2.899***
Prior offense	**Number prior felony arrests**	1.135***	1.122***
	Prior violent offense (no omitted)	1.319***	1.312***
	Prior FTA (no omitted)	1.259***	1.266***
Model summary	**Constant**	1.037	0.842
	N	17,925	14,908
	-2LL model 1 (df)	20108.23 (14)***	16898.25 (14)
	Cox & Snell R square	.136	.145
	Nagelkerke R Square	.189	.200
	% correct	71.2%	70.6%

Table F.3 Logistic Regression Results: Detained or Not by Court Venue

		All cases		Any district court		Magistrate court only	
Demographics	**Age**	1.009***	1.011***	.997	0.998	1.011***	1.013***
	Race (white omitted)						
	Hispanic	.943	1.134**	.854	1.051	.970	1.161***
	Native American	3.404***	4.132***	4.896***	6.507***	3.380***	4.080***
	Other	1.102	1.111	1.149	1.225	1.088	1.078
	Gender (female omitted)						
	Male	1.156***	1.144**	1.177	1.160	1.159***	1.148**
Current offense	**Most serious offense (Violent omitted)**						
	Property	1.088	1.043	1.287*	1.270*	1.001	0.943
	Drug	.650***	0.643***	.799*	0.781*	.588***	0.592***
	DWI	.463***	0.445***	.523***	0.504***	.451***	0.434***
	Public order	.474***	0.438***	.927	0.804	.470***	0.420***
	Other	.448***	0.465***	.438*	0.448	.429***	0.459***
	Degree (Misdemeanor omitted)						
	Felony	2.896***	2.899***	3.955***	3.528***	2.618***	2.727***
Prior offenses	**Number prior felony arrests**	1.135***	1.122***	1.215***	1.211***	1.112***	1.098***
	Prior violent offense (no omitted)	1.319***	1.312***	1.384***	1.369**	1.251***	1.098***
	Prior FTA (no omitted)	1.259***	1.266***	1.332***	1.429*	1.323***	1.253***
Model summary	**Constant**	1.037	0.842	1.021	0.911	0.997	0.799
	N	17,925	14,908	4,171	3,450	13,754	11,458
	Cox & Snell R square	.136	.145	.082	.087	.120	.132
	Nagelkerke R Square	.189	.200	.134	.137	.163	.179
	% correct	71.2%	70.6%	82.7	81.1%	67.6%	67.5%

Appendix G. Pretrial detention and bond

Table G.1 Logistic Regression Results of Pretrial Detention and Bond

		Model 1	Model 2	Model 3	Model 4
Demographics	**Age**	1.005***	1.012***	1.012***	1.012***
	Race (white omitted)				
	Hispanic	1.007	1.026	.977	1.001
	Native American	3.111***	4.459***	4.273***	4.333***
	Other	1.258*	1.159	1.157	1.163
	Gender (female omitted)				
	Male	1.179***	1.239***	1.174***	1.176***
Current offense	**Most serious offense (violent omitted)**				
	Property		1.095	1.0445	1.052
	Drug		.645***	.641***	.645***
	DWI		.457***	.488***	.489***
	Public order		.427***	.416***	.418***
	Other		.425***	.427***	.430***
	Degree (misdemeanor omitted)				
	Felony		3.147***	3.114***	3.073***
Prior offenses	**Number prior felony arrests**			1.102***	1.057***
	Prior violent offense (no omitted)			1.257***	1.276***
	Prior FTA (no omitted)			1.394***	1.432***
Bond amount	Minimum bond amount				1.00
Model Summary	**Constant**	1.082	.815	.741	.725
	N	12,908	12,908	12,908	12,908
	-2LL (df)	16361.407 (5)	14849.573 (6)	14712.852(14)	147019.58(15)
	Cox & Snell R square	.038	.144	.153	.153
	Nagelkerke R Square	.052	.198	.210	.210
	% correct	64.1%	70.5%	70.7%	70.7%

Appendix H. Characteristics by adjudication and conviction status

Table H.1 Demographics by Adjudication and Conviction Status

	Adjudication w/in 2 yrs	Not adjudicated	Conviction among those adjudicated w/in 2 yrs	Not convicted among those adjudicated w/in 2 yrs
Age				
Mean (s.d.)	34.13 (11.76)	33.42 (10.95)*	34.15 (11.79)	34.19 (11.73)
Median	32.00	31.00	32.00	32.00
N	16,435	1,490	9,666	6,769
Race				
Asian/Pacific Islander	0.3%	0.5%***	0.3%	0.2%***
Black	2.7%	3.2%	3.0%	2.4%
Native American	17.9%	11.2%	16.4%	20.2%
Hispanic	36.6%	43.4%	36.0%	37.5%
White	41.8%	41.0%	43.7%	39.1%
Other	0.3%	0.2%	0.4%	0.1%
Unknown	0.3%	0.5%	0.2%	0.4%
N	16,440	1,490	9,669	6,771
Gender				
Male	75.6%	74.3%	76.6%	74.1%***
Female	24.4%	25.7%	23.4%	25.9%
N	16,440	1,490	9,669	6,771

Table H.2 County of Booking by Adjudication and Conviction Status

	Adjudicated within two years	Not adjudicated within two years	Median days to adjudication among those adjudicated within two years	Mean days to adjudication among those adjudicated within two years	Convicted (among those adjudicated within two years)	Not convicted (among those adjudicated within two years)
County						
Chaves	9.4%	10.1%***	152.5	201.3 (187.7)	10.6%	7.7%***
Colfax	2.5%	2.0%	144.5	194.3 (165.7)	3.0%	1.8%
Doña Ana	15.7%	11.4%	138.0	214.0 (183.5)	16.0%	15.1%
Luna	3.7%	2.5%	86.0	143.2 (148.0)	4.8%	2.0%
McKinley	16.2%	9.7%	93.0	138.9 (139.5)	13.7%	19.9%
Otero	7.7%	9.2%	143.5	203.5 (186.5)	11.3%	2.7%
Sandoval	14.4%	14.2%	178.0	221.3 (164.0)	13.7%	15.4%
Santa Fe	18.6%	13.1%	123.0	164.0 (152.7)	16.9%	20.9%
Valencia	11.8%	27.9%	173.0	221.9 (174.7)	10.0%	14.3%
N	**16,440**	**1,490**	**16,440**	**16,440**	**9,669**	**6,771**

Table H.3 Current Offense by Adjudication and Conviction status

	Adjudication within two years	Not adjudicated	Conviction among those adjudicated	Not convicted among those adjudicated
Current offense (Detention center or DPS)				
Violent	31.2%	30.1%***	26.1%	38.5%***
Property	12.7%	20.5%	13.8%	11.2%
Drug	9.2%	14.4%	10.2%	7.8%
DWI	23.2%	14.3%	30.9%	12.3%
Other	1.3%	0.9%	1.3%	1.3%
Public order	17.5%	10.8%	13.6%	23.1%
Probation violation only	0.0%	0.0%	0.0%	0.0%
Warrant-charge unknown	2.3%	5.7%	2.0%	2.6%
Unknown	2.6%	3.3%	2.1%	3.3%
N	16,440	1,490	9,669	6,771
Offense severity				
Felony	32.2%	50.7%***	35.0%	28.1%***
Misdemeanor	61.0%	38.4%	59.0%	64.0%
Unknown or N/A	6.8%	10.9%	6.0%	7.9%
N	16,440	1,490	9,669	6,771
Current offense (court)				
Violent	31.9%	31.5%***	26.5%	39.5%***
Property	13.1%	19.6%	14.3%	11.4%
Drug	9.7%	14.4%	10.5%	8.4%
DWI	23.4%	14.8%	31.2%	12.4%
Other	3.5%	1.8%	3.3%	3.8%
Public order	17.1%	8.5%	13.2%	22.8%
Unknown	1.2%	9.3%	1.0%	1.6%
N	16,440	1,490	9,669	6,771
Offense severity				
Felony	34.3%	62.6%***	37.7%	29.5%***
Misdemeanor	65.3%	33.8%	61.9%	70.3%
Unknown or N/A	0.3%	3.6%	0.4%	0.2%
N	16,440	1,490	9,669	6,771

Table H.4 Criminal History by Adjudication and Conviction Status

	Adjudication within two years	Not adjudicated	Conviction among those adjudicated	Not convicted among those adjudicated
Prior criminal history				
Prior arrests	58.4%	56.8%	57.7%	59.5% *
N	16,440	1,490	9,669	6,771
Number prior arrests				
Mean (std. dev)	2.36 (3.67)	2.32 (3.62)	2.43 (3.58)	2.31 (3.60)*
Median	1.00	1.00	1.0	1.0
N	16,440	1,490	9,669	6,771
MSO priors				
Violent	38.9%	38.4%***	37.6%	40.6%***
Property	17.6%	23.9%	19.0%	15.8%
Drug	9.7%	12.1%	10.1%	9.2%
DWI	20.8%	13.9%	20.0%	21.9%
Other	3.8%	3.0%	3.8%	3.9%
Public order	9.0%	8.5%	9.3%	8.5%
PV	0.2%	0.2%	0.2%	0.2%
N	9,602	846	5,575	4,027
Any prior FTA	12.5%	10.1%**	12.0%	13.3%**
N	16,440	1,490	9,669	6,771

Table H.5 Bond and Length of Pretrial Detention by Adjudication and Conviction Status

	Adjudication w/in 2 yrs	Not adjudicated	Conviction among those adjudicated w/in 2 yrs	Not convicted among those adjudicated w/in 2 yrs
Has bond	**83.5%**	**82.0%**	**81.7%**	**82.3%**
Average minimum bond amount				
Mean (std. dev)	$2,877.42 (47,816.66)	$6,053.43 (27,654.24)	$3,521.69 (60,800.13)	$1,877.81 (9853.85)
N	12,056	857	7,331	4,725
Length of pretrial detention				
Mean (std. dev.)	11.73(41.15)	32.52 (128.21)	14.50(43.35)	7.77 (32.04)***
Median	1.00	2.00	1.00	1.00
N	16,440	1,490	9,669	6,771

Appendix I. Adjudication logistic regression models

Table I.1 Adjudication with All Cases Logistic Regression Models

All cases		Model 1	Model 2	Model 3	Model 4
Demographics	**Age**	1.005*	1.001	1.001	1.001
	Race (white omitted)				
	Hispanic	0.832**	0.801***	0.788***	0.784***
	Native American	1.580***	1.292**	1.244*	1.230*
	Other	0.818	0.852	0.852	0.864
	Gender (female omitted)				
	Male	1.079	1.086	1.060	1.086
Current offense	**Most serious offense (violent omitted)**				
	Property		1.077	1.080	1.043
	Drug		1.047	1.057	1.003
	DWI		1.268**	1.316**	1.274**
	Public order		1.668***	1.686***	1.628***
	Other		1.706**	1.751**	1.675*
	Degree (misdemeanor omitted)				
	Felony		0.369***	0.367***	0.390***
Prior offense	**Number prior felony arrests**			0.944	1.004
	Prior violent offense (no omitted)			1.208**	1.227**
	Prior FTA (no omitted)			1.26*	1.237*
Pretrial detention	**Pretrial detention days**				.998***
Model Summary	**Constant**	8.872***	14.797***	14.161***	14.321***
	N	17,925	17,925	17,925	17,925
	-2LL model (df)	10199.836(5)	9748.874(11)	9731.714(14)	9687.052(15)
	Cox & Snell R square	.004	.028	.029	0.032
	Nagelkerke R Square	.008	.065	.067	0.073
	% correct	91.7%	91.7%	91.7%	91.8%

Table I.2 Adjudication with Magistrate Court Only Logistic Regression Models

Magistrate		Model 1	Model 2	Model 3	Model 4
Demographics	**Age**	1.004	1.007	1.007	1.007
	Race (white omitted)				
	Hispanic	1.002	0.974	0.952	0.946
	Native American	0.970	0.987	0.977	0.985
	Other	0.792	0.809	0.799	0.800
	Gender (female omitted)				
	Male	0.971	0.977	0.934	0.590
Current offense	**Most serious offense (violent omitted)**				
	Property		4.035***	4.044***	4.020***
	Drug		3.287***	3.383***	3.337***
	DWI		1.608***	1.705***	1.679***
	Public order		1.767***	1.814***	1.787***
	Other		1.709*	1.744*	1.713*
	Degree (misdemeanor omitted)				
	Felony		1.504***	1.494***	1.555***
Prior offense	**Number prior felony arrests**			1.088	1.098
	Prior violent offense (no omitted)			1.444**	1.461***
	Prior FTA (no omitted)			0.764*	0.772
Pretrial detention	**Pretrial detention days**				0.944***
Model Summary	**Constant**	19.797***	11.511***	10.938***	11.126***
	N	13,758	13,758	13,758	13,758
	-2LL (df)	4879.707(5)	4786.714(11)	4765.634(14)	4753.953(15)
	Cox & Snell R square	.000	.007	.008	0.009
	Nagelkerke R Square	.001	.023	.028	0.031
	% correct	95.7%	95.7%	95.7%	95.7%

Table I.3 Adjudication with District Court Only Logistic Regression Models

District only		Model 1	Model 2	Model 3	Model 4
Demographics	**Age**	1.000	0.997	0.997	0.997
	Race (white omitted)				
	Hispanic	0.639***	0.634***	0.622***	0.622***
	Native American	1.450*	1.338	1.257	1.253
	Other	0.864	0.884	0.894	0.906
	Gender (female omitted)				
	Male	1.223*	1.207*	1.179	1.201*
Current offense	**Most serious offense (violent omitted)**				
	Property		1.000	0.998	0.967
	Drug		1.054	1.062	1.017
	DWI		1.717***	1.771***	1.694***
	Public order		1.459	1.461	1.406
	Other		1.874	2.006	1.902
	Degree (misdemeanor omitted)				
	Felony		1.133	1.112	1.136
Prior offense	**Number prior felony arrests**			1.002	1.007
	Prior violent offense (no omitted)			1.165	1.172
	Prior FTA (no omitted)			1.626***	1.611***
Pretrial detention	**Pretrial detention days**				0.999**
Model Summary	**Constant**	3.663***	3.447***	3.267***	3.324***
	N	4171	4171	4171	4171
	-2LL (df)	4294.57(5)	4278.438(11)	4258.056(14)	4251.268(15)
	Cox & Snell R square	.012	.016	.021	0.022
	Nagelkerke R Square	.019	.025	.032	0.034
	% correct	78.5%	78.5%	78.5%	78.5%