

FAST FACTS

Bail Reform in New Mexico Pretrial Detention Motions and their Outcomes

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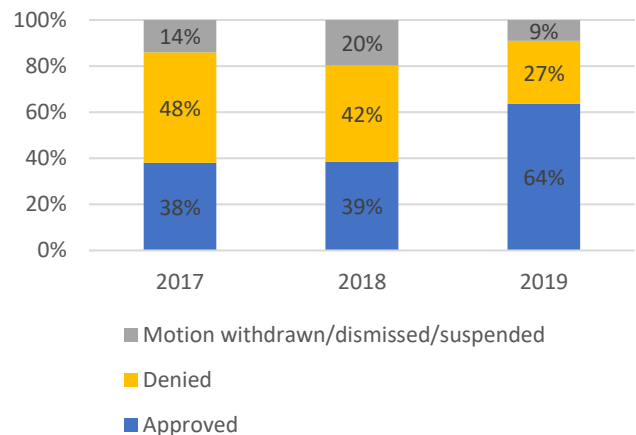
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Prosecutors may file motions to detain felony defendants during the pretrial period; this is sometimes referred to as preventative detention. This study examined the outcomes of pretrial detention motions disposed between 2017 and 2019 in New Mexico. Using a sample of 300 cases, we analyzed the evidence presented, judges' reasons for approving or denying detention, the length of pretrial detention, and pretrial success, among other metrics. Additionally, we estimated the proportion of felony cases involving a pretrial detention motion among cases disposed between 2017 and 2020. This report highlights some key findings.

Rates of Filing and Motion Outcomes

- Prosecutors file for pretrial detention in an estimated 7 to 9% of felony cases initiated in metropolitan or magistrate court.
- Judges approved pretrial detention in 46% of reviewed cases.
- Judges found that the defendant posed a danger in 76% of motions that they either approved or denied. Thus, judges released some defendants they found to pose a danger because they also found conditions to mitigate that danger.
- Judges approved pretrial detention motions at higher rates in 2019 (64%) than in 2017 (38%) or 2018 (39%). Fewer motions were withdrawn or dismissed in 2019 (9%) than the two previous years.

Motion Disposition by Year



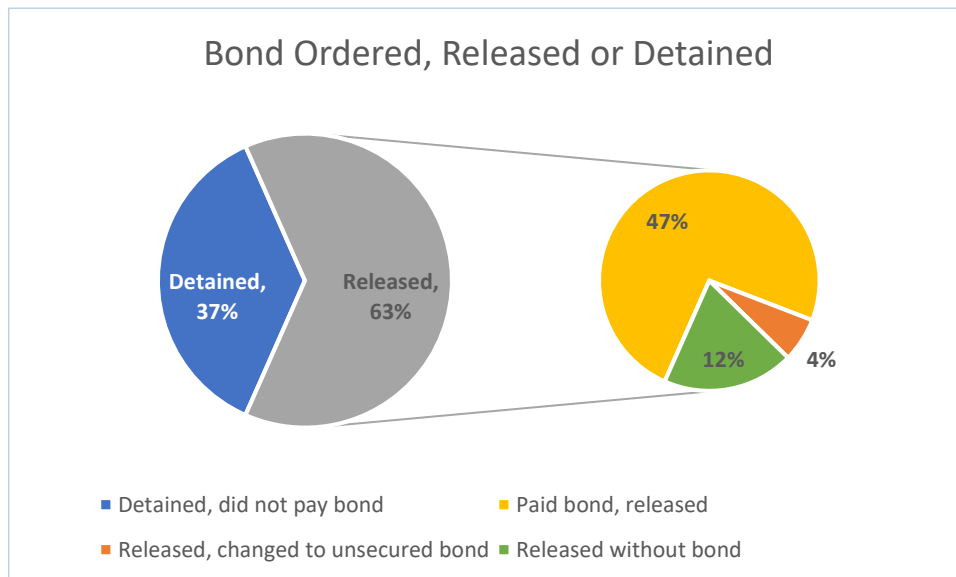
Characteristics of Cases Associated with Preventative Detention

Judges were more likely to approve detention in cases in which:

- One or more victims were law enforcement officers.
- The current offense included charges of violence in conjunction with property and/or drug offenses.
- There was live testimony at the hearing.
- The victim sustained serious injuries.
- The defendant had a criminal history or was currently involved in the criminal justice system.
- The PSA recommendation was ROR-PML4 or higher, or had a flag for new violent criminal activity.¹

Use of Bond

- Judges ordered 40% of released defendants to pay bond.
- Judges ordered secured bond most often when they determined the defendant posed a flight risk.



37% of defendants ordered to pay bond did not post bond and were detained pretrial. The remaining 63% were released because they posted bond, their bond was changed to unsecured, or a judge later ordered they be released without a secured bond.

¹ Acronyms include Public Safety Assessment (PSA) and Release on Recognizance – Pretrial Monitoring

Level (ROR-PML). Only the 2nd Judicial District used the PSA.

Length of Pretrial Detention

Defendants were detained for a median of 81.5 days overall, but this varied by court outcome:

- Defendants preventively detained spent a median of 212 days in pretrial detention.
- Defendants who were released without bond spent a median of 5 days in detention.
- Defendants ordered to pay bond spent a median of 76.5 days in detention.
- Those whose motions were dismissed or withdrawn spent a median of 8 days in detention.

Rates of Pretrial Failure

Over one-third (35%) of defendants released by the judge initially or detained and later released had one or more pretrial failures documented in the underlying criminal case. An additional 7% had failures documented in a concurrent case or a new arrest that was not documented in court records. Overall, 42% had one or more documented pretrial failures. Regardless of the documented source, the proportion of defendants with a new violent offense was low, ranging from 3 to 5%. Most common were failures to appear for court: up to 25% of defendants failed to appear for one or more court hearings in either the underlying criminal case or in a concurrent case.

Pretrial Failure Type Among Those Released	% with failure documented in underlying criminal case	% with failure documented anywhere during pretrial period
Any pretrial failure (new offense or FTA/FTC)	35%	42%
Any new offense	7%	14%
New violent offense only	3%	5%
Failure to appear (FTA)	23%	25%
Failure to comply (FTC)	22%	24%

N=173

More information is available in the full-length version of this report.
The full report can be obtained by contacting:

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