

Analysis of the Pretrial Detention System in Shelby County, Tennessee

August 28, 2024

- The University of Memphis, Center for Community Research and Evaluation is supporting Shelby County Government's reporting with regard to pretrial detention. In this report, we outline our initial findings after reviewing several years of data from General Sessions Court, Pretrial Services, and the Shelby County Sheriff's Office. We specifically focus on the Standing Bail Order, a set of policy changes approved in August 2022 and fully implemented in February 2023. Among other provisions, the Standing Bail Order is intended to strengthen the presumption of pretrial release when bail is set by judicial commissioners, and also implements a formal bail review hearing process for individuals held on bail amounts deemed unaffordable. This report consists primarily of descriptive reporting and is not a causal analysis. In the coming months, we intend to supplement our reporting with a statistical study to rigorously estimate the impacts of the Standing Bail Order.
- At the initial bail screening, we identify a modest increase in the percentage of defendants released without the requirement of monetary bond after the issuance of the Standing Bail Order. Most of these effects occur prior to full implementation of the Standing Bail Order's provisions. We disaggregate this data by offense. We also find a modest decrease in median bail amounts. Judicial commissioners vary in their utilization of monetary bond, but on average set a bail amount deemed unaffordable 66% of the time.
- Cases proceed to a full bail review hearing if defendants remain in custody, generally on unaffordable bail amounts. In approximately 30% of these cases, the monetary bond set at the initial hearing is replaced with a non-monetary (release on recognizance or conditions) bond. Rates of release at the bail review hearing vary based upon the charges filed in the case.
- Both initial and bail review hearings are often conducted at time intervals in excess of the objectives articulated in the Standing Bail Order. While the Order generally requires that a bail review hearing occur within 72 hours of a defendant being taken into custody, we find that this benchmark is rarely met for defendants arrested later in the week, especially Thursdays and Fridays. This is often due to the need to hold the arraignment prior to the bail review hearing to ensure defendants are represented by counsel. In addition, while the Order states that initial pretrial screenings should occur within twelve hours of booking in most cases, the median amount of time between booking and initial hearing has actually increased from 11.4 hours in 2021 to 14.7 hours in 2023.
- We find mixed results when assessing the public safety impacts of the Standing Bail Order. While we find an increase in rearrest on new cases (14.3% prior to the standing bail order vs. 16.0% after full implementation), we find a decrease in bench warrants/failure to appear (10.1% prior to the standing bail order vs. 9.3% after full implementation).



Center for Community Research
and Evaluation

About This Report¹

On August 8, 2022, the Shelby County Commission passed a resolution funding a bail hearing room, as a companion to a Standing Bail Order adopted on August 15, 2022 by the judges of the Shelby County General Sessions Criminal Court. Among the provisions of the revised process include creation of a new bail hearing courtroom, individualized bail hearings with counsel no later than three days after a defendant's arrest, examination of a defendant's financial circumstances prior to any decision, court reminders, and imposition of secured money bail only as a last resort. These new procedures are intended to increase the fairness of the bail process by reducing the extent to which individuals are incarcerated solely due to their financial status, increasing defendants' access to timely bail hearings, and ensuring that constitutional protections are provided to defendants with fidelity. According to the resolution, the implementation of this bail hearing process followed two days of a guided mediated discussion between Shelby County Government and various advocacy groups, who executed a Memorandum of Understanding to work collectively to "avoid unnecessary and costly litigation."

The resolution places an emphasis on using administrative data to inform the Commission and the public regarding the impact and outcomes of the pretrial detention process, assisting in the Commission's review and evaluation of the judicial commissioner program. However, because of the scale of the data and the storage of data among different agencies and software modules, the reporting of this data has been challenging. In a letter to the Commission on September 15, 2023, the Lead Judicial Commissioner reported that reporting these metrics was labor-intensive for County agencies, particularly as no participating agencies had a statistician on staff to facilitate the production of accurate data from multiple data sources.

To address these challenges, the County has partnered with the University of Memphis, Center for Community Research and Evaluation (CCRE). CCRE's mission is to provide social science research and evaluation support for community-based projects. For this project, CCRE's intent is to serve as a neutral third party to statistically evaluate the outcomes of Shelby County's pretrial detention system. In furtherance of this objective, this report presents the initial findings from our ongoing efforts to conduct a transparent, objective, longitudinal, and granular statistical illustration and scientific evaluation of the bail and bond system in Shelby County.

To fund this project, CCRE applied for and received a grant from Arnold Ventures, a foundation that funds rigorous research in the area of criminal justice. We are grateful for their support, whose grant has avoided the need to request taxpayer dollars to facilitate this project. Our grant proposal to Arnold Ventures was supported by a bipartisan group of local and state officials, as well as County government and local advocacy groups. We deeply appreciate our partners' support, which was integral to making this report possible. We emphasize that analysis and conclusions are that of the authors alone.

This report is intended to be one of multiple reports produced by CCRE to support County government in its assessment of pretrial processes in Shelby County. In the coming months, we hope to produce updated reporting with more recent cases and additional metrics, as well as leveraging criminal court data to further assess outcomes. We will also work with county agency staff, county technical staff, advocacy group representatives, community stakeholders, and subject matter experts to ensure that our reporting is both accurate and relevant for the community.

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This report consists primarily of descriptive statistics and is not intended to constitute a rigorous impact study. In the next phase of this project, we intend to conduct a statistically rigorous study to provide estimates of the causal impacts, if any, of the Standing Bail Order. We anticipate implementing a regression discontinuity design, a quasi-experimental research design approach that leverages the timing of implementation to rigorously estimate causal effects. The causal impact study will also adjust for confounding factors that may shape bail decisions and related public policy impacts; while we hope the present report is illustrative, we do not currently adjust for potential confounders.

About The Data

Beginning in February 2024, the University executed a data use agreement with Shelby County, and CCRE data scientists began working with Shelby County Information Technology Services to obtain the necessary raw data extracts to support this project. We are grateful for the support of numerous Shelby County employees for their extensive work in working to provide us with timely and comprehensive data.

In this report, we evaluate data for cases filed in Shelby County General Sessions Criminal Court. Shelby County Government provided CCRE with raw data extracts associated with non-expunged General Sessions criminal cases. The data was largely sourced from the Odyssey case management system used by General Sessions Court and Pretrial Services, as well as booking information from the Shelby County Sheriff's Office. We have data for cases filed between 2018 and 2023, inclusive, with data elements through mid-May 2024 for most files, and early June 2024 for data associated with bail hearings and bonds set.

We began by subdividing and cleaning the data such that all data associated with a particular unit of analysis were grouped together.² We remove data that was identified as erroneous or intended to be deleted by clerks at time of data entry. The data yielded a total of 128,887 bail settings, of which 125,939 occurred between January 1, 2018 and December 31, 2023. We limit this sample to 91,479 bail settings in which the initial event in that bail setting's history was set by Pretrial Services.³ In rare cases where more than one bail setting meets these criteria for any general sessions case, we include only the first bail hearing. In rare cases where one bail setting is linked to more than one case, we associate the bail hearing with the case with the most severe charge.⁴ This results in a dataset of 91,371 cases and associated bail settings. Leveraging this set of cases, we append various logical sets of data elements to each case to prepare this report.

A current limitation of our study is that our courts data is limited to data extracts for General Sessions Court cases. While misdemeanor cases are generally adjudicated in General Sessions Court exclusively, felony cases will usually begin in General Sessions for indictment/bail setting, but then be bound over to

²For example, each case encompasses one or more charge, one or more bail hearing, one or more posted bond, etc. We organized the data into a case file, a charge file, a bail hearing file, a posted bond file, etc. This step required several steps to reshape the data and remove duplicates.

³We use the bond setting type ID description from Odyssey to determine this. For example, bond levels may be set by a court for bench warrants, or in cases where jurisdiction was transferred from a municipal court to county general sessions court. We exclude these cases. We define a bail setting history event as "set" by Pretrial Services if the variable is labeled PTS (Pretrial Services) or 24HC (24-hour Clerk's Office). We include both bail settings set by a bail schedule and those labeled as Judge/Judicial Approved. In addition, we include cases labeled "Hold Without Bond (No Bond Set)" if they appear to be set by a judicial commissioner per the judge ID. In addition, we exclude bail settings in which the only evidence of that bail hearing is from a warrant. Bail settings from warrants are housed separately in Odyssey.

The initial event is the bail history event with `sequence=0` except as resequenced by the authors after removing data entry errors.

⁴Severity of crime is defined per the degree of the offense as defined by the Tennessee Code. We consider only charges associated with the case that were recorded prior to the bail hearing, were not disposed of prior to the bail hearing, and were not entered in error.

a grand jury for indictment. This creates a “held-to-state” and (if probable cause is found) a criminal court case. If data elements are associated with those cases but not the original general sessions case, we do not have access to those data elements. We have very recently received a data extract from the County that includes data on held-to-state and criminal court cases, and plan to evaluate that for our next report. However, as this report includes only General Sessions cases, our findings particularly for longer-run outcomes should be considered preliminary. In this report, we strive to account for this limitation in deciding which data elements to report and how to calculate them.

Another limitation of our study is one that is common for projects that leverage large-scale administrative data. To prepare this report, we merged elements from different court system modules and other databases. As a result, measurement error can occur due to historical changes in data entry procedures over time, data entry error, incomplete documentation, or in the technical manner in which data is housed. For example, bond postings, bail hearings, and affordable bail calculator amounts are housed somewhat separately in Odyssey; while the data can be linked through case number, this can be challenging when handling cases of multiple events for the same case, or in handling outliers with respect to the timing of events to each other. There also exists the possibility of measurement error due to the unavoidable complexity of the criminal justice system itself: cases can be complex and require multiple hearings, and charges can be dropped or added throughout a case.

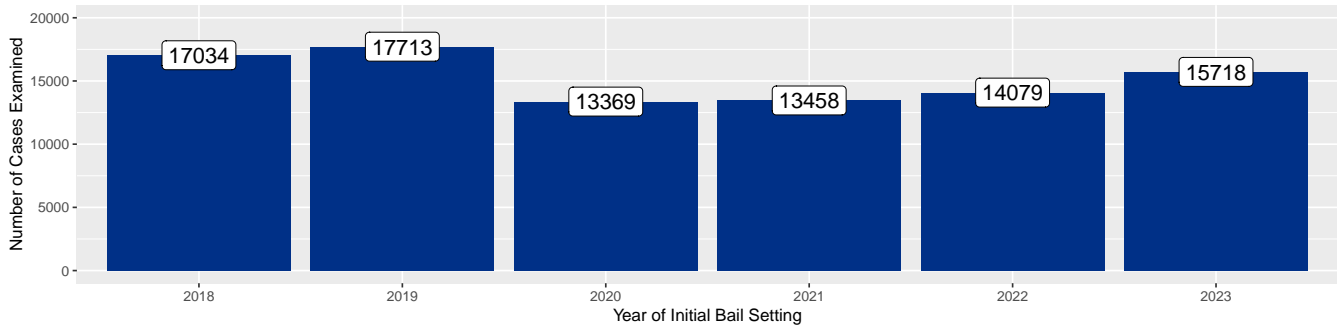
We are sensitive to the potential public policy impact of our reporting and do our best to assemble the data in a way that is sensible and transparent. Our goal is to have deployed a methodology that mitigates common errors, such that any error that does remain is small enough in magnitude to avoid impacting any public policy decisions that are influenced by our reporting. While we have regularly evaluated the reasonableness of our assumptions throughout our work and will continue to do so, we do not manually verify the accuracy of every case.

About the Cases

We briefly summarize the demographic characteristics of our dataset of 91,371 cases/bail settings:

- 44.3% had a felony charge at the time of the arrest, with the remainder being misdemeanors (or rarely, municipal ordinances).
- 83.6% of defendants are Black (non-Hispanic), 13.4% are White (non-Hispanic), and 2.9% are Hispanic.
- 79.6% are male, and 20.4% are female.
- 58.6% are represented by a public defender, 35.9% by private counsel, and 5.5% by another court-appointed attorney.⁵
- The breakdown of cases by year (as classified by year of initial bail setting) is as follows:

⁵We use the attorney most recently added to the case prior to the initial bail setting, or if none the first attorney added thereafter. Percentages do not include missing data.



Initial Bail Setting

Shortly after being booked into jail, a judicial officer makes an initial determination of bail, following an assessment by Shelby County Pretrial Services. Generally, this determination is made by a Judicial Commissioner.⁶ Judicial commissioners are appointed by the Shelby County Commission and supervised by a Lead Judicial Commissioner, under the oversight of an elected judge of General Sessions Criminal Court. The use of judicial commissioners to make initial bail setting decisions is a longstanding practice in Shelby County. The Standing Bail Order did not change the practice of using judicial commissioners at the initial bail setting, but rather required the use of certain procedures by judicial commissioners, including the use of the Vera Institute bail calculator to estimate an affordable bail level, which (until mid-2024) was considered when setting bail. The Order places an emphasis on setting the minimum monetary bail level necessary in order to comply with state law, which then required that bail be set to 1) reasonably assure the appearance of the arrestee in future court proceedings and 2) protect the public. Judicial commissioners are permitted to set “unaffordable” bail levels if required, or to hold capital defendants without bond, but those cases are subject to a subsequent Bail Review Hearing.

In this section, we explore only the initial bail levels set by judicial commissioners. At the initial screening, we define four potential outcomes: release on recognizance (no monetary bond or bail conditions required), release on conditions (also without the requirement of monetary bond), the setting of some monetary bond, and hold without bond (applicable only to first-degree murder cases). To examine the impact of the standing bail order, we define cases with respect to the date their initial bail level was set, contrasting the following three groups:

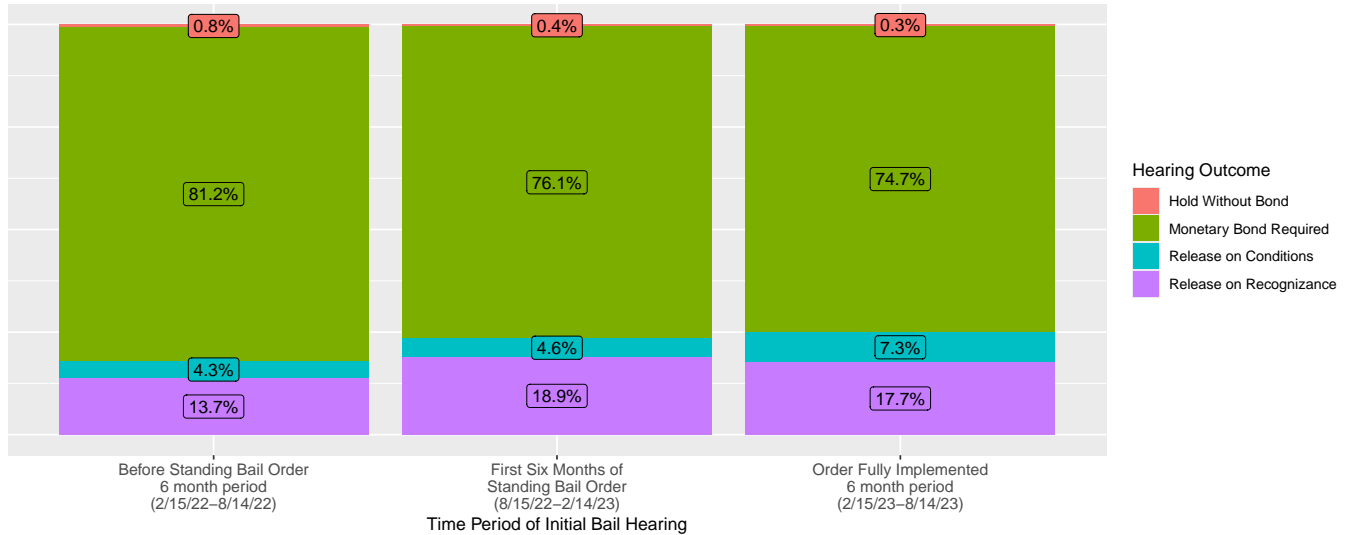
- The six-month period prior to the announcement of the Standing Bail Order by the General Sessions Court and County Commission (February 15, 2022 to August 14, 2022);
- The six-month period between the announcement and the date of full implementation (August 15, 2022 to February 14, 2023); and
- The six-month period following full implementation of all provisions of the standing bail order, such as the use of the Vera calculator, bail review process, and use of a dedicated bail hearing room (February 15, 2023 to August 14, 2023).

⁶For some defendants in 2018-2020, the 24-hour clerk’s office used a bail schedule to set bail. Occasionally, judges set bail (such as a preset bail determined by a judge prior to a defendant’s arrest pursuant to a warrant).

Outcome of Initial Release Screening

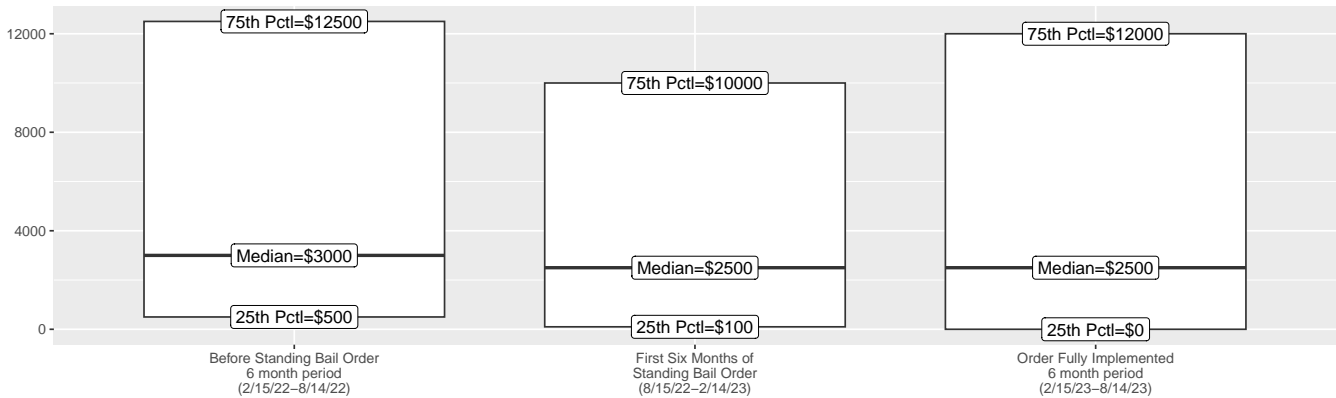
The analysis indicates a decline in the rate of required monetary bond⁷ following the passage of the county resolution and court order. However, the bulk of the decrease occurs prior to full implementation of the Standing Bail Order’s processes (prior to the utilization of the affordable bail calculator).

Outcome of Initial Release Screening



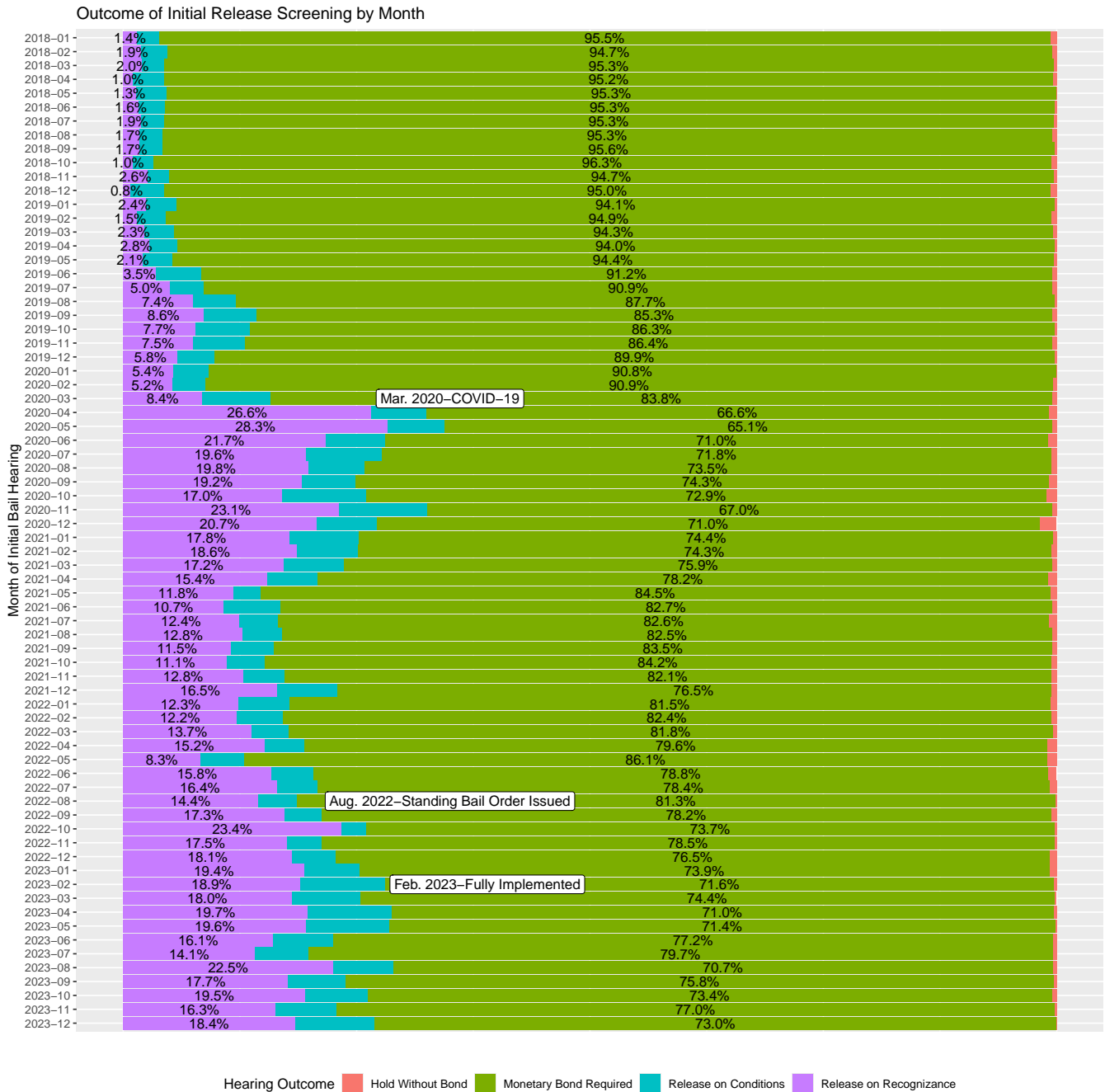
We also calculate the median bail level set in each time period for all individuals (except for capital offenders held without bond) and find a similar trend. The median bail level set at the release screening decreased from \$3,000 prior to the standing bail order to \$2,500 thereafter. Again, the decrease occurs prior to full implementation, remaining constant thereafter. In the figure below, we report the median, 25th percentile, and 75th percentile bail levels for each time period of interest.

Initial Bail Amount Set



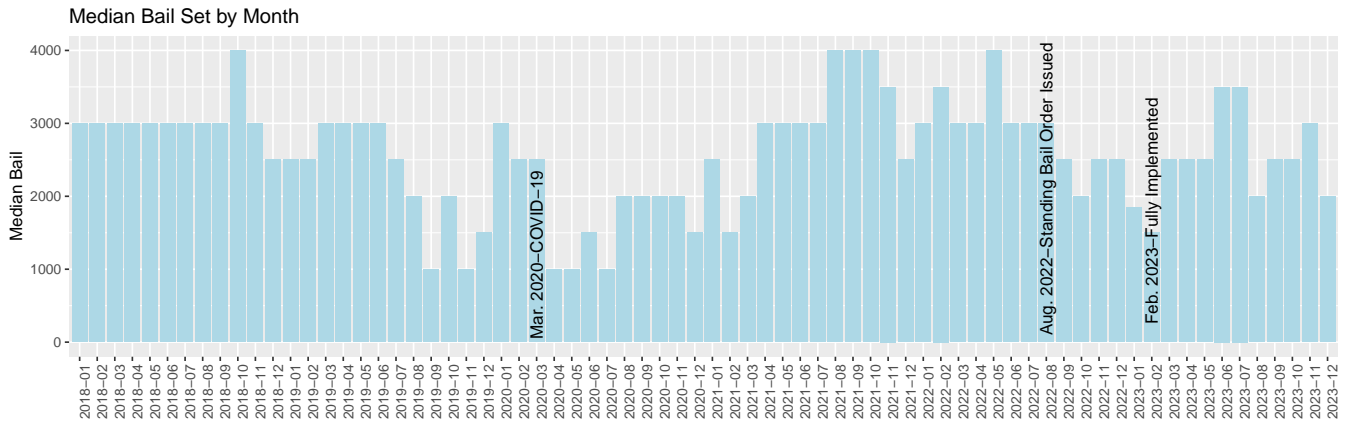
⁷Throughout this report, we do not distinguish between cash and surety bonds.

We illustrate the changes at a more granular level in the following figure, which illustrates initial outcomes for all months of our dataset. Rates of release of recognizance are low in 2018, but increase in 2019 when a Public Safety Assessment tool begins to be utilized. Rates of release on recognizance further increase in April 2020 due to the onset of the COVID-19 pandemic: pursuant to a March 25, 2020 Tennessee Supreme Court order, courts across the state pursued efforts to reduce the jail population, including through eliminations/reductions in bond. We also observe, nearly simultaneously, a decrease in cases in the data in which bail was set using a predetermined bail schedule. For all months between January 2018 and March 2020, at least 25% of bails were set using a bail schedule. However, the use of bail schedules appears to end beginning in May 2020 and does not reoccur in the data.⁸



⁸We assume that bails are set per a schedule if the bail hearing type includes the word “Scheduled”. There are a handful of cases coded as using a bail schedule after April 2020, but this may simply be data entry error.

In the following figure, we report the median bail level set by month. We observe declines in median bail levels following the issuance of the Standing Bail Order but prior to full implementation. We also observe a temporary decline in median bail level following the beginning of the COVID-19 pandemic.



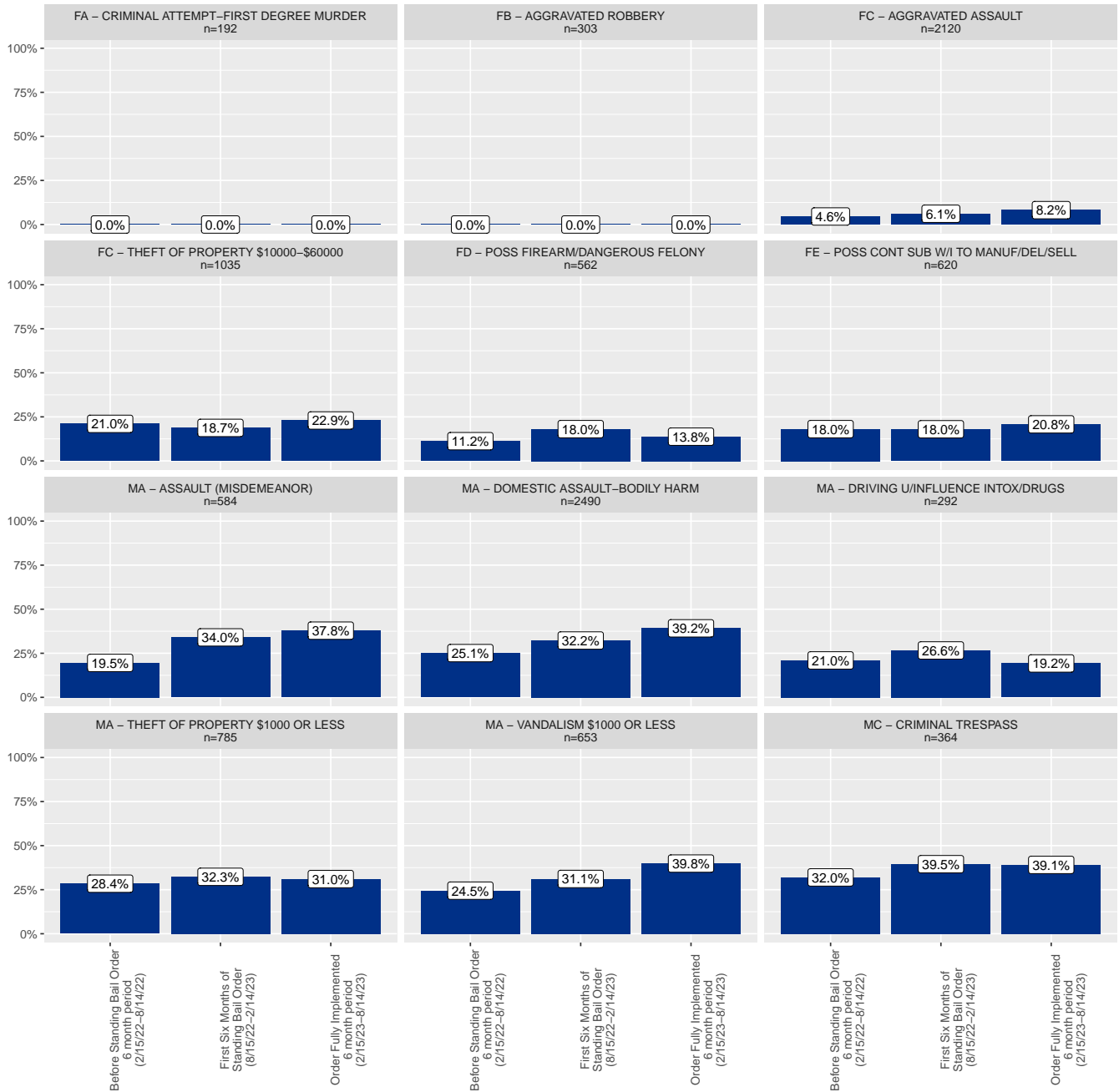
Outcome by Charge

Next, we explore the impacts of the Standing Bail Order on initial release screening decisions and how those vary based on the severity of the case. For each case, we identify the highest charged offense applicable to the bail setting⁹ and report the percentage of cases in which no monetary bail is required (release on recognizance or conditions). We focus on a set of twelve charges that are high-frequency and reflect a diversity of cases involving both violent and property crimes, and both misdemeanors and felonies of varying severity.

⁹The severity of crime is defined per the degree of the offense as defined by the Tennessee Code. We consider only charges associated with the case that were recorded prior to the bail hearing, were not disposed of prior to the bail hearing, and were not entered in error. If there are two charges of equal severity, we assign one charge to the case randomly.

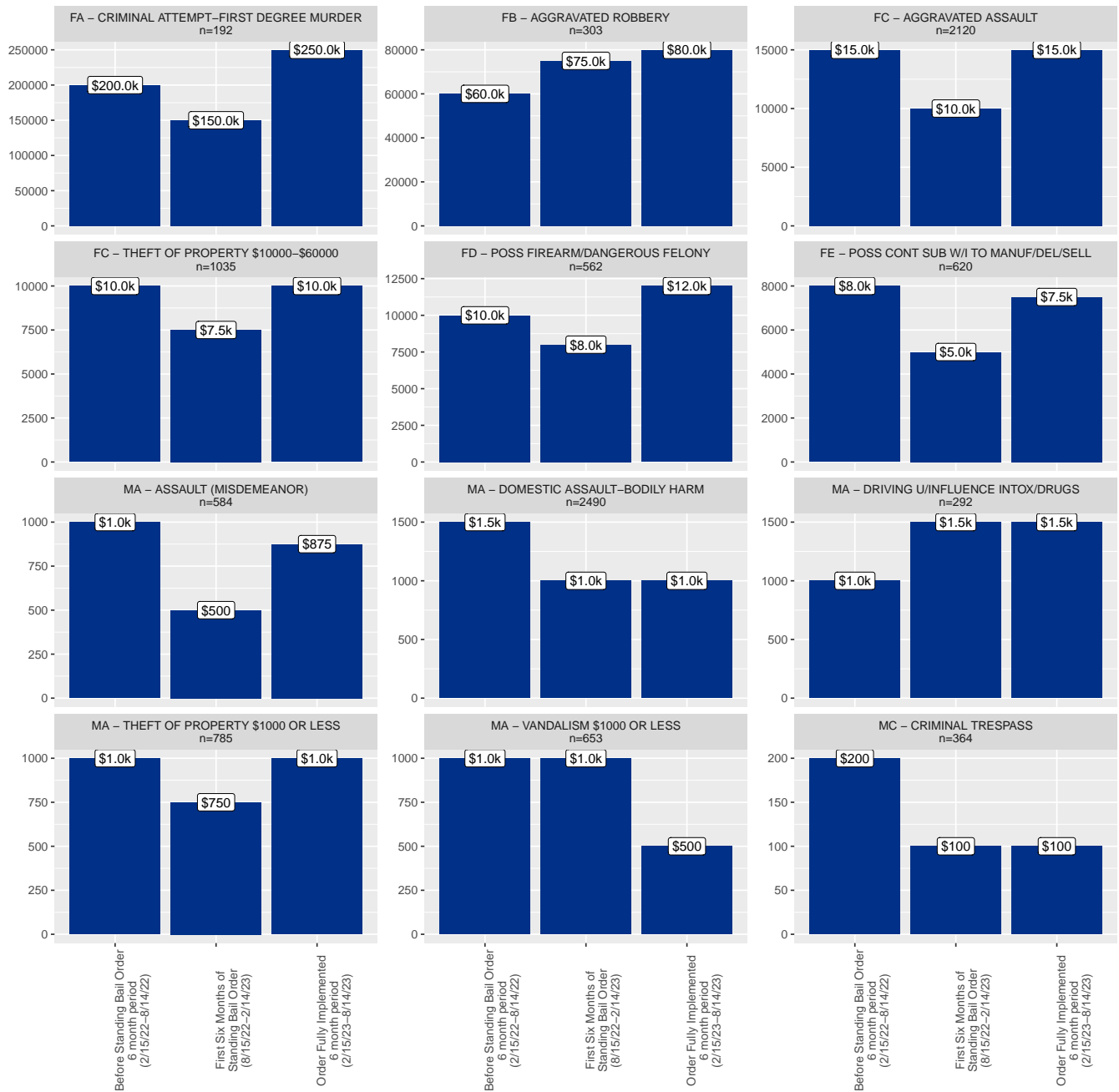
In terms of rates of release on recognizance or conditions, we identify the largest increases in aggravated assault, misdemeanor assault, misdemeanor domestic assault, misdemeanor vandalism, and misdemeanor criminal trespass.

% of Defendants Released Without Requirement of Monetary Bond



We also report median bail levels for each of the twelve offenses illustrated above. In terms of median bails set, we observe increased required bail levels for attempted first degree murder and aggravated robbery, and decreased required bail levels for domestic assault, vandalism, and criminal trespass.

Median Bail Set at Initial Bail Setting



Outcome by Commissioner

Next, we explore the extent to which initial hearing outcomes vary on the basis of the judicial commissioner adjudicating the hearing. Using this data, we report, for our three time periods of interest, the percentage of cases in which the judicial commissioner released the defendant without the requirement of monetary bond. We report only values in which a judicial commissioner adjudicated 300 or more cases during the respective time period.

Commissioner	Before SBO	First 6 Months of SBO	SBO Fully Implemented
Alexander-Best, Mischelle		20.2%	18.6%
Barber, Robert	6.9%	10.9%	
Dandridge, Damita	24.7%		
Gray, Serena			41.0%
Harris, Rhonda	6.7%		
Hewlett, Terita		18.6%	15.3%
Ingram, Christopher, Jr.	18.5%	21.7%	32.4%
Kirk-Johnson, Kathy			34.5%
Marshall, John	20.7%	23.9%	
Mozingo, Leslie K			28.1%
Pool, David	26.0%		
Purifoy, Shayla	13.8%	27.1%	15.0%
Reed, Kevin	25.2%	36.0%	30.2%
Saleem, Zayid			12.0%
Sampson, Ross		35.3%	33.3%
Smith, Kenya			27.7%
Wilson, Lee	24.0%		

The results reflect a wide degree of variation and use of discretion in adjudicating cases. Before the Standing Bail Order was issued, commissioners released defendants without the requirement of monetary bond at rates varying from 6.7% to 26.0%. In the first six months of implementation, the range was 10.9% to 36.0%. Finally, in the period following full implementation, the range was 12.0% to 41.0%.

Affordable Bail Calculator

As a part of the initial release screening, Pretrial Services administered the Vera Institute Bail Assessment Ability to Pay Calculator to determine the amount of bail that would be reasonable for an individual to pay given his or her self-reported disposable income and assets. Because this was a new component required by the Standing Bail Order, calculator data is only available for the period of full implementation, with the first calculator entry in the dataset recorded on February 17, 2023. According to the terms of the Standing Bail Order, if the judicial commissioner sets a bail level that is higher than the affordable amount, then the bail order is then subject to the full bail review process.

We examine the period of full implementation in our dataset, February 17, 2023 to December 31, 2023.¹⁰ Of 14125 cases within this time period, we found a documented attempt to use the affordable bail calculator for 13780 cases. Of these, the calculator was completed, and the affordable bail amount recorded, for 12029 cases.

¹⁰As of May 2024, the use of the calculator has been phased out due to a change in state law.

According to the data, for 56.6% of the cases in which the calculator was used, the affordable bail calculator amount was \$0. For defendants with a non-zero affordable bail calculator amount, the median affordable bail calculator amount was \$664. Judicial commissioners set an “unaffordable bail” (an amount that exceeds the affordable bail calculator amount) 66% of the time. While the median affordable bail calculator amount was \$0, the median bail set by judicial commissioners was \$2500.

Timing of Initial Release Screening

The Standing Bail Order states that the initial bail hearing is to occur within twelve hours of entry to the Jail. Since full implementation of the standing bail order (for cases filed prior to December 31, 2023), we estimate that the median number of hours between the time of booking and the time of initial bond setting is 14.8 hours. We find that the time exceeds twelve hours 69% of the time during the period of interest. The time exceeded 24 hours 14% of the time.

We identify a disparity between women (who are booked at Jail East) and men (who are booked at 201 Poplar): 47% of women receive a bail setting within twelve hours of booking, versus 26% for men.

The timing of the pretrial release may reflect increasing work volume required for each case. In the years 2018-2020, the median number of hours from booking to pretrial screening ranged from 10.1 to 10.8 hours each year. This has increased to 11.4 hours in 2021, 13.2 hours in 2022, and 14.7 hours in 2023.

Bail Review Hearing

The Standing Bail Order includes a formalized bail hearing process following the initial pretrial release screening. Generally held in a specialized Bail Hearing Room,¹¹ bail hearings are required in cases where the judicial commissioner prescribes a bail determined to be “unaffordable” per the Vera calculator, and the defendant remains in custody without immediately posting bond.

Unlike the initial release screening, counsel for both the defendant and the state are present at the bail hearing. In the bail review process, deference is typically given to terms and conditions on bail that are mutually agreed upon by counsel.

At this time, due to limitations in the data, we are only imperfectly able to identify bail review hearings in the data. Therefore, the results of this section should be considered preliminary. We will work with the County to better understand the documentation process in future reports. With this in mind, we do our best to classify each post-full-implementation case into one of the following categories:

1. Cases in which no monetary bond was required at the initial release screening (3575 cases).
2. Cases not in category (1) in which a bail level was modified¹² within seven days of the initial release screening (2870 cases).
3. Cases not in category (1) or (2) in which we identified evidence of a bail hearing¹³ occurring within seven days of the initial release screening, but the bail level was not changed (1620 cases).

¹¹Judges can also hear bail hearings in their courtrooms.

¹²Cases can have multiple bail settings as it proceeds through General Sessions Court, and each bail setting has a historical record of modifications and changes. When identifying bail modifications, we count only the latter. Although we find occasional cases where bail revisions are incorrectly entered as new bail settings rather than bail setting modifications, these are relatively rare in the data.

¹³Evidence of a bond hearing is defined as an entry in Odyssey corresponding to a non-rescheduled, non-cancelled hearing entitled Bail Review Hearing Arraignment, Bail Hearing, or Bond Hearing.

4. Cases not in categories (1) - (3) in which, within seven days of the initial release screening, a bail hearing was scheduled but then cancelled or deleted. Most, but not all, of these cases involve a defendant posting bond prior to the bail hearing, making the bail hearing unnecessary. (4226 cases).
5. Cases not in categories (1) - (4) in which there is no documentation of a bail hearing or bail setting change, but the defendant is released from jail within seven days or posts bond within seven days. (1327 cases).
6. All other cases, which involve defendants still in custody after seven days with no bail level changes or bail hearing documentation found (507 cases).

We assume that cases in categories 2, 3, and 6 are subject to the bail review process, while cases in categories 1, 4, and 5 are not. While this operationalization is imperfect, it allows us to identify approximately the correct set of cases relevant to the bail review process. In addition, we assume that bail levels in categories 3 and 6 are identical to the levels set at the initial pretrial release hearing.

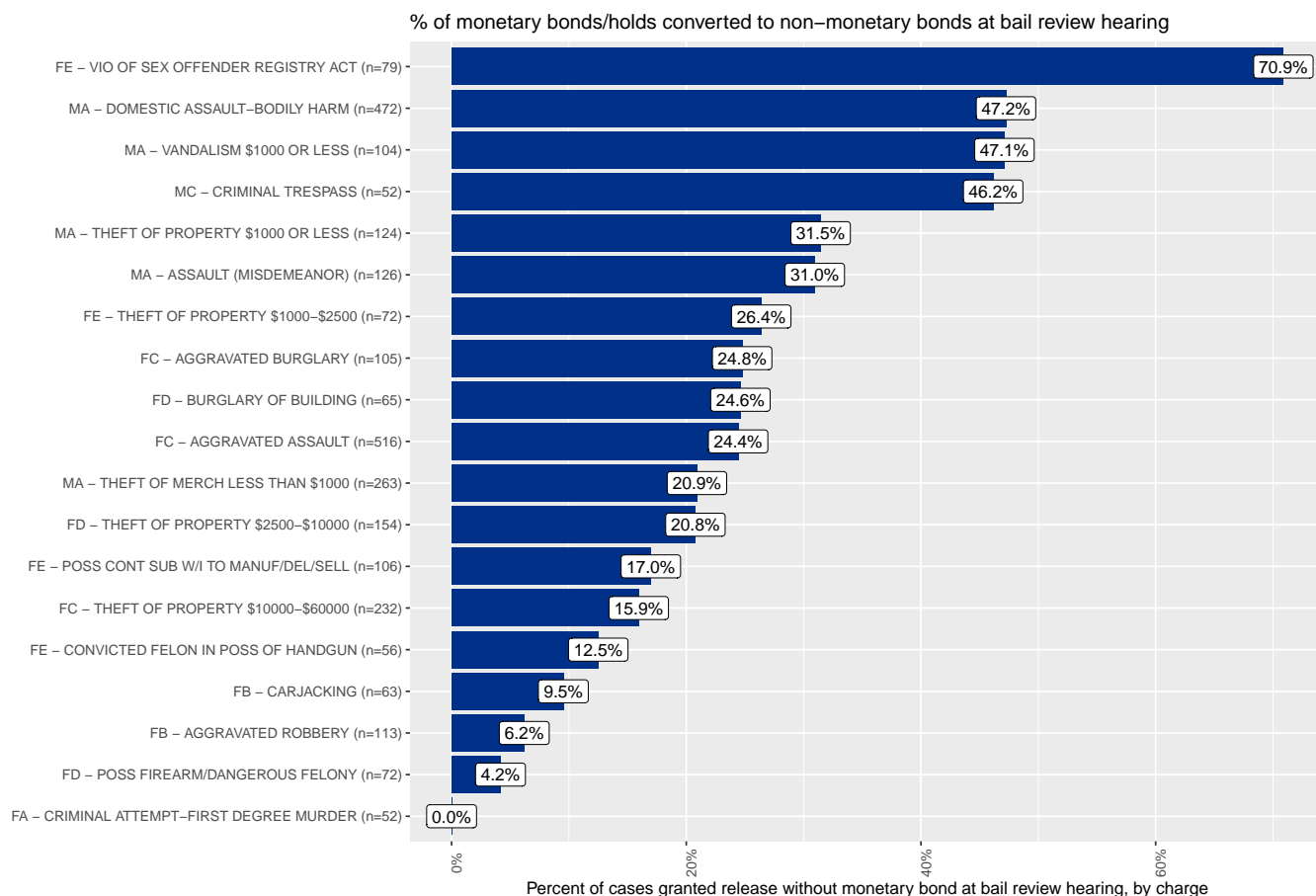
Following these assumptions, we identified a total set of 4997 cases subject to bail review. Of these cases, 29.6% of cases, all of which required monetary bond or detention without bond at the initial release screening, were released on recognizance or conditions during the bail review hearing.

We also find that 16.9% were issued a monetary bond lower than the original amount, 42.8% saw no change, and 10.7% saw a bond increase. When combining the bond reductions and releases on recognizance and conditions, it appears that the bail review hearing process sets a bail that is lower than that set by the initial judicial commissioner in nearly half of the cases presented for full review.

Bail Review Hearing by Charge

Next, we examine how bail review hearing outcomes vary based on the severity of the case. Specifically, we report the rate of release without monetary bond required at the bail review hearing, disaggregated by the most severe charge associated with each case at time of the initial release screening. In the chart below, we report this rate for all offenses in which more than 50 cases associated with that highest charge are subject to the bail review process during the time period of interest.

The results are shown in the chart below. Each row represents the percentage of cases that are released on recognizance or conditions *at the bail review hearing*. This rate does not include any cases issued release on recognizance or conditions at the initial release screening, since all cases receiving bail review hearings were issued a monetary bond (or hold without bond) at the initial release screening.



We find a large amount of variation in release without monetary bond based on the severity of the offense. The replacement of monetary bonds with non-monetary bonds occurs 70% of the time for bail review hearing cases in which the most severe charge is violation of the Sex Offender Registry Act. For other high-frequency crimes, the rates range from 0% for attempted murder to 47% for domestic assault.

Timing of Bail Review Hearing

The Standing Bail Order stipulates that, with some exceptions, the bail hearing review should occur within 72 hours after the defendant is seized into physical custody. To get a sense of the timing of the bail review hearings, we look at a set of cases with a documented and completed bail hearing in Odyssey. We include both cases that lead to a bail setting change and those that do not.¹⁴

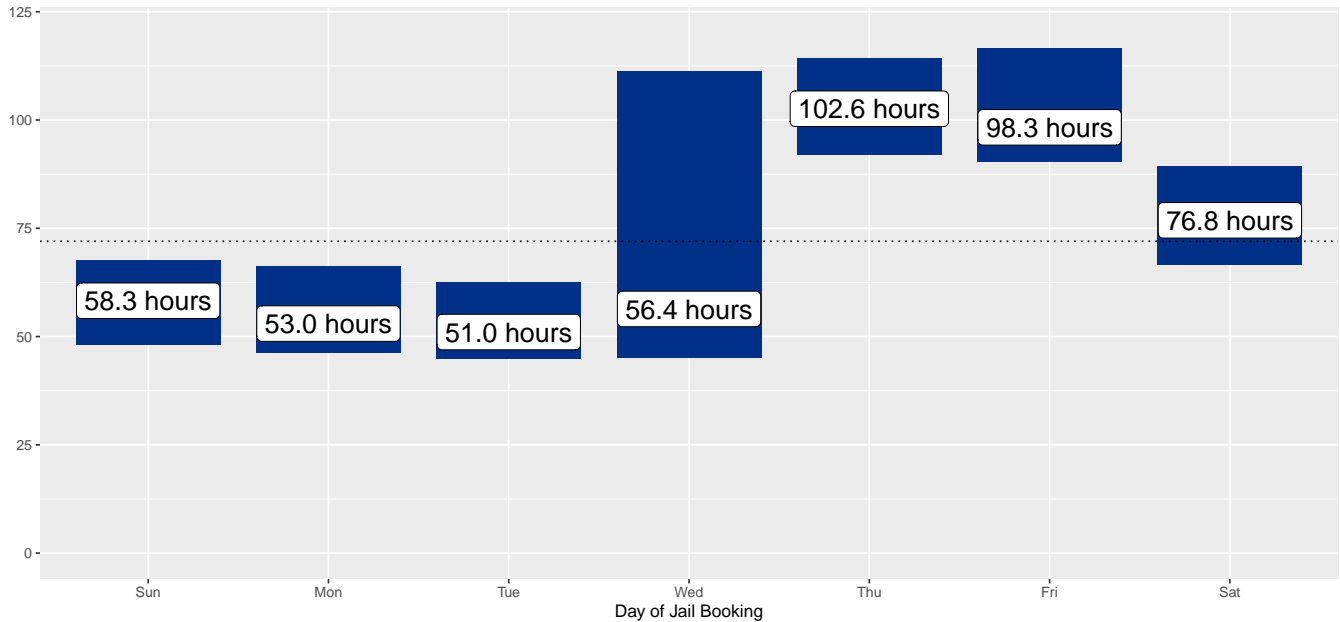
Examining this set of 2003 cases, we estimate that the median number of hours between a defendant’s initial booking and his or her bail review hearing is 71.9 hours. The percentage of defendants completing the hearing within 72 hours is 50.1%. A majority of defendants complete the bail hearing between 51.3 hours (25th percentile) and 102.8 hours (75th percentile).

While many of the cases that take longer than 72 hours may be driven by defense counsel actions, judicial officer illness, or other circumstances, we find that a significant factor relating to the timeliness of bail review hearings is the day of the week a defendant is arrested. While judicial commissioners are available 24 hours a day for initial release screenings, bail review hearings do not occur on weekends. As a result, defendants arrested on Thursday, Friday, or to some extent Wednesday and Saturday, are much less likely

¹⁴We also exclude rare cases where the bail hearing occurs after the initial release from jail.

to complete their bail review hearing within 72 hours, compared to defendants arrested on Sunday, Monday, or Tuesday. As arraignment must be held prior to the bail review hearing to ensure the defendant has counsel, the bail review hearing usually takes place two business days after booking – which corresponds to four calendar days for defendants booked later in the week.

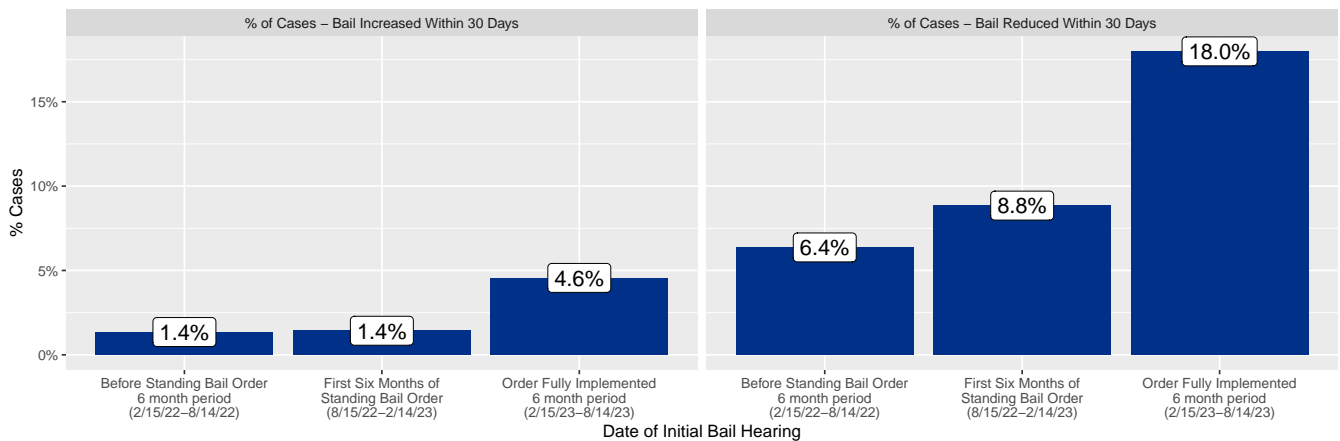
Hours from Jail Booking to Completed Bail Review Hearing
Median and Interquartile Range (25th and 75th Percentile)



Impact on Bail Setting Amendments

We estimate, across all cases, the percentage of cases in which the bail amount set by the initial judicial commissioner is amended within 30 days of the initial bail setting. This does not include cases where a bond is revoked, such as a rearrest or failure to appear.

We find that the percentage of cases in which bail is reduced increases from 8.8% to 18.0% when comparing the 6-month periods before and after institution of the formal bail review process. The percentage of cases with a bail increase also moves upward, from 1.4% to 4.6%. This suggests that the revised bail review process is leading to higher rates of judicial review regarding the initial bail decisions made by judicial commissioners.



Impacts of the Standing Bail Order

In this section, we examine the dataset to assess the potential public safety impacts of the Standing Bail Order. We examine both rates of *rearrest* and of *failure to appear*.

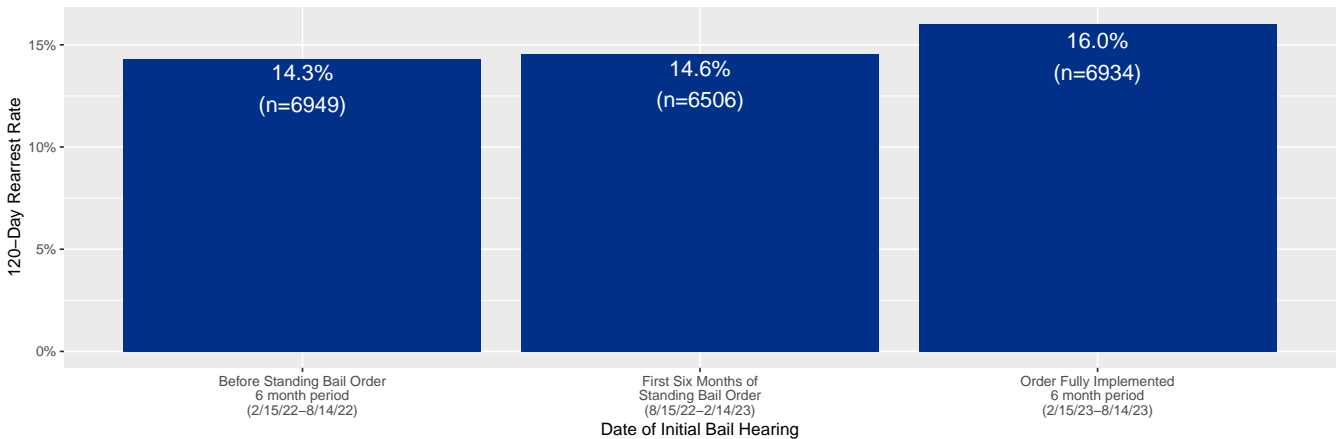
Rearrest

The decision of whether or not to impose monetary bond potentially has differential impacts on the likelihood that a defendant commits future criminal acts. For example, a monetary bail requirement that prolongs a defendant’s detention could lead to greater harms on his or her ability to maintain employment, increasing his or her propensity to commit future crimes due to economic hardship. On the other hand, for those who post bond, high bail requirements could act to deter subsequent offenses.

We explore the potential public safety impact of the Standing Bail Order by evaluating the rate at which released defendants are rearrested on new crimes. Specifically, we estimate the percentage of defendants, among those who were released from jail prior to September 1, 2023, that meet the following criteria:

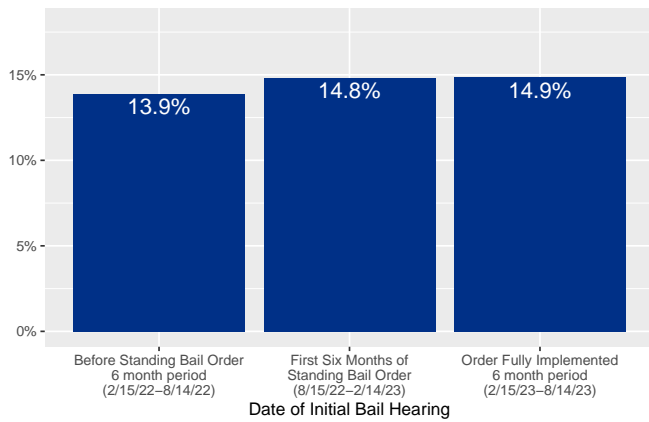
- Defendant was booked into jail after, and within 120 days of, his or her original release from jail, and
- The new jail booking is associated with a different General Sessions case filed at least one day after the defendant’s release from jail.

We calculate the rate of 120-day rearrest for each time period, with respect to the date of the bond hearing of the initial case. The findings suggest a modest increase in rearrest rates following full implementation of the Standing Bail Order.

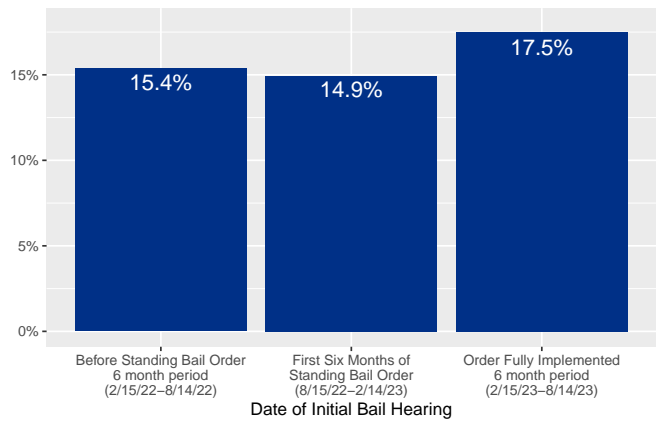


The changes in rearrest rates may vary based upon the type of offense. We found that rearrest rates increased more rapidly for misdemeanor cases upon full implementation of the Standing Bail Order, relative to felony cases.

120-Day Rearrest Rate for Felony Cases

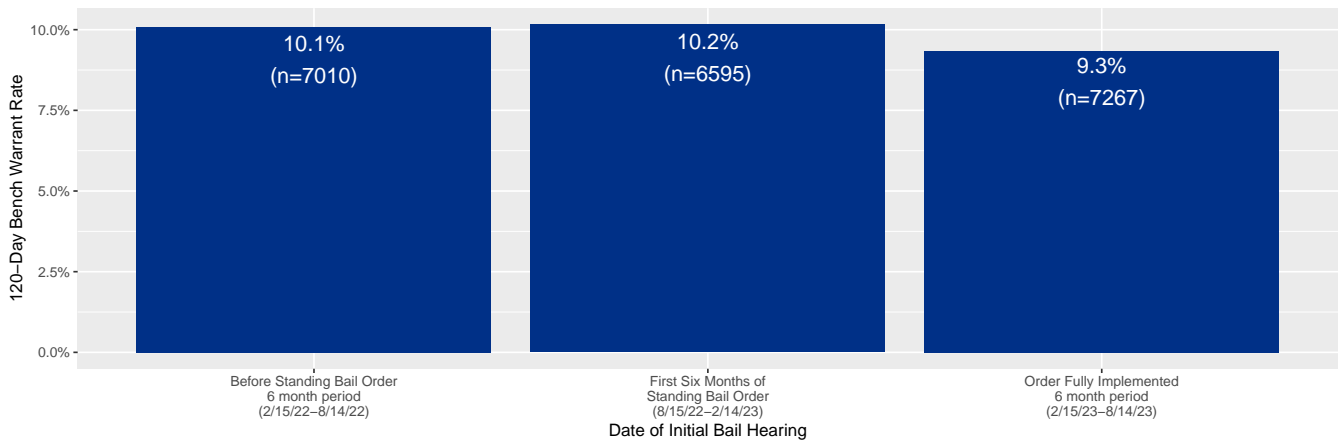


120-Day Rearrest Rate for Misdemeanor Cases



Bench Warrants

Next, we examine bench warrant data to assess whether the Standing Bail Order led to any changes in the rate of defendants failing to appear in court or comply with court provisions. We identify, for each defendant released from jail earlier than January 15, 2024, the percentage of defendants on whom a bench warrant is issued on the original General Sessions case within 120 days of release from jail.¹⁵ We find a modest decrease in the incidence of bench warrants issued following full implementation of the Standing Bail Order.



Next Steps

We emphasize that this report is one component of an ongoing effort to support Shelby County’s reporting on the County’s pretrial detention system. In the coming months, we plan to implement a variety of activities to support the County, including:

- Conducting additional statistical analyses to fully and rigorously understand the impacts of the Standing Bail Order, including coverage of more recent cases and more detailed assessments of public safety impacts, as well as implementation of a rigorous statistical study leveraging regression discontinuity design to rigorously estimate causal impacts;

¹⁵We consider release for any reason, including dismissal of charges.

- Examining any potential impacts of recent changes in public policy, for example restrictions on collecting ability to pay information or considering ability to pay as a factor in setting bail;
- Validating all assumptions, including sensitivity tests, checks of random cases to ensure accuracy, as well as discussions with County personnel and subject matter experts to ensure our assumptions are consistent with County workflows;
- Evaluating data from Criminal Court to capture additional metrics, and standardizing data transfer;
- Communicating results with stakeholders and jointly determining next steps for how to report information and additional metrics to report; and
- Contextualizing results in context by reviewing academic studies on other jurisdictions.