"DETAINING OR RELEASING DEFENDANTS FROM PRETRIAL CONFINEMENT:

A CASE FOR THE CONTINUED USE OF SURETY BONDING AS A COST-CONTAINING MECHANISM FOR SECURED PRETRIAL RELEASE"

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DISCLAIMER: The contents of this paper and the discussion or conclusions offered herein do not reflect the views of the Department of Criminology and Criminal Justice or the University of Tampa. The views expressed herein are those of the author.

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D.E.K.

STATEMENT OF THE PROBLEM

One of the principal arguments that undergirds the opposition to surety-based pretrial release is that people are languishing away in pretrial detention because they cannot afford the cost of a surety bond in order to secure their pretrial release. A related assumption is that since defendants are locked up because they are poor, they are being systematically deprived of their due process rights because of their financial status. As a consequence of this supposition, it has been proposed that an alternative method of unsecured pretrial release be implemented as policy that would allow defendants to remain free without any type of surety to secure their appearance in court. As an alternative to being admitted to bail through a private surety bonding company on a "pay-as-you-go" basis, it is argued that defendants could be placed in government-sponsored and government-run unsecured pretrial release programs that are funded by taxpayers' support.

Certainly, there are people in jail who are actually supposed to be there for a lawful purpose and legitimate reason: there are offenders serving sentences; there are those persons that are on "hold" for transfer to another county or another state; there are those persons that are being held in protective custody; there are individuals who are being deported and awaiting transfer to Immigration and Customs Enforcement; there are those persons who are in detention because they are awaiting trial on federal charges; and there are those convicted offenders who are awaiting transfer to state correctional facilities from their original jurisdiction of conviction. Finally, there are those persons in pretrial detention who are there because the judge has determined that the nature and the gravity of the alleged offense(s) are of sufficient severity so as to preclude any type of pretrial release, whether secured or unsecured. Fundamentally, people end up in jail for a myriad of reasons *other* than just pretrial detention. Associated with these different reasons for being in jail are differential lengths of time associated with the confinement.

Thus, the purpose of this research is to determine, based upon available data from those counties in the state of Florida that have online databases with search and query capabilities, the average length of stay in pretrial detention following arrest prior to being released from pretrial custody.

SURETY BONDING AS A SECURED PRETRIAL RELEASE MECHANISM

The use of bail in the United States is as old as the Republic itself, and historically, a defendant's right to bail can be traced back as early as 1275 in the Statute of Westminster in England. It was also incorporated into the Magna Carta and English common law. Historically, through legislation and case law, the right to bail was recognized. The Judiciary Act of 1789, adopted on the same day that Congress proposed the Bill of Rights to the States for ratification, directed that "*upon all arrests in criminal cases, bail shall be admitted except where the punishment may be death."* Fundamentally, the use of surety bonding and monetary bail is nothing new. In fact, the use of bail can be traced back to England. The one restriction on its use in the United States can also be traced back to the Eighth Amendment of the United States Constitution whereby it is simply asserted that "bail shall not be excessive."

When the Eighth Amendment was ratified by the states, the right to bail was presumed, since the Eighth Amendment provides that "*excessive bail shall not be required."* State constitutions have overwhelmingly recognized a right to bail as an option to avoid pretrial deprivations of liberty for the accused. Historically and traditionally, bail has meant *monetary, or surety* bail. The idea that "bail shall not be excessive" is presumptive of the fact that bail exists in the first place. Thus, in the state of Florida, surety bonding is authorized in state statute under chapter 903, and its use is regulated by chapter 648.

However, in the state of Florida, state statute requires that the court consider a multitude of factors in determining bail and the conditions surrounding it, including:

> (a) The nature and circumstances of the offense charged;
> (b) The weight of the evidence against the defendant;
> (c) The defendant's family ties, length of residence in the community, employment history, financial resources, and mental condition;
> (d) The defendant's past and present conduct, including any record of convictions, previous flight to avoid prosecution, or failure to appear at court proceedings;
> (e) The nature and probability of danger which the defendant's release poses to the community;
> (f) The source of funds used to post bail;
> (g) Whether the defendant is already on release pending resolution of another criminal proceeding or on probation, parole, or other release pending completion of a sentence;
> (h) The street value of any drug or controlled substance connected to or involved in the criminal charge;
> (i) The nature and probability of intimidation and danger to victims;
> (j) Whether there is probable cause to believe that the defendant committed a new crime while on pretrial release;
> (k) Any other facts that the court considers relevant;
> (l) Whether the crime charged is a violation of chapter 874 or alleged to be subject to enhanced punishment under chapter 874 or reclassification under s. 843.22. If any such violation is charged against a defendant or if the defendant is charged with a crime that is alleged to be subject to such enhancement or reclassification, he or she is not eligible for release on bail or surety bond until the first appearance on the case in order to ensure the full participation of the prosecutor and the protection of the public; and,
> (m) Whether the defendant, other than a defendant whose only criminal charge is a misdemeanor offense under chapter 316, is required to register as a sexual offender under s.943.0435 or a sexual predator under s. 775.21; and, if so, he or she is not eligible for release on bail or surety bond until the first appearance on the case in order to ensure the full participation of the prosecutor and the protection of the public." [1]

However, even though there are specifically defined criteria and conditions regarding the use of bail in the state of Florida, in almost all courts, the determination of both the amount and type of bail is based mainly on a two-pronged test: the judge's view of the seriousness of the crime, and the defendant's prior record. In part, this two-pronged emphasis generally results from a lack of information about the accused. Because bail is typically determined within a time

[1] Florida Statutes, Chapter 903.046.

period of 24- to 48-hours after an arrest [2], there is little time to conduct a more thorough and comprehensive assessment as to the worthiness of the defendant to be placed on bail. As a result, judges have developed standard rates of bail that are *offense-specific*. In some cases, the judge will set a high bail if the police or prosecutor is seeking to have a certain person kept off the street.[3] In some counties that utilize unsecured pretrial release, defendants are placed in these programs based upon their outcome score on a risk assessment tool in an attempt to determine who will have the greatest likelihood of success in unsecured pretrial release status. Whether these risk assessment tools actually predict defendant success in unsecured pretrial release programs is, however, questionable.

When reduced to its simplest form and considered in its appropriate context, surety bonding is nothing more than an insurance policy that is fundamentally designed to do one and only one thing – to ensure the defendant's appearance in court. To this extent, the setting of bail and the use of surety bonding is not a punitive social control mechanism. It is just like any other form of insurance. For example, if you operate a motor vehicle, you are required to have motor vehicle insurance. If you have a mortgage on your house or your property, you are required to have home and property insurance. If you rent, it is prudent if you have renter's insurance. If you are a physician or an attorney, you are required to have malpractice insurance to cover "errors of omission." We have health insurance to cover medical costs and expenses, and we have life insurance in the event that the insured party dies. Regardless of the nature and type of insurance policy, every single commercial insurance policy issued to any policy holder for whatever reason is based on a level of risk that is actuarially determined. These actuarial data and the level of risk

[2] In the state of Florida, the decision to admit a defendant to bail is rendered within twenty-four hours subsequent to arrest.

[3] Unsecured pretrial release programs were instituted to ostensibly give the judge more complete information upon which to base his/her decision to admit a defendant to pretrial release.

determination provide a rational basis for the issuance of the insurance policy, the amount of the policy premium, the associated terms and conditions of the policy as specified in insurance "riders", and so forth.

Fundamentally, a surety bond is no different. Like any type of commercially-available insurance policy, whether for life, health, automobile, property, homeowner's, or liability insurance, the amount of the surety bond is based upon the analysis and assessment of risk by the judge or magistrate who renders a bail decision based upon the facts and circumstances surrounding the case. To this extent, the setting of bail is not an arbitrary decision; quite the opposite, the decision to admit a defendant to bail comports with the procedures stipulated in the language in the Florida statutes. The setting of bail is determined by a judge who reviews the totality of the facts and circumstances of the case, and renders a bail decision based upon the judge's perception of risk relative to the perceived likelihood of the defendant's subsequent appearance in court and the bail schedule established pursuant to Florida law. Quite simply, this decision is not made in a vacuum. In fact, the use of surety bonding is the one single best mechanism to ensure that the defendant appears for all of his/her court dates. [4]

The use of surety bonding has also been affirmed as recently as March, 2016 by the Department of Justice under the Obama administration by issuing restrictions on what surety bonding *cannot* do. In a Memorandum Opinion rendered by the United States Department of Justice on March 14, 2016, pertaining to the enforcement of fines and fees, in regards to those individuals accused of misdemeanors, quasi-criminal ordinance violations, or civil infractions, the Department states in principle (6), "Courts must not employ bail or bail bond practices that

[4] The bail agent does, in fact, provide a valuable adjunctive service to law enforcement since the bail agent is lawfully authorized to effect an arrest if the defendant fails to appear for any regularly scheduled court appearances that require his/her participation.

cause indigent defendants to remain incarcerated *solely because they cannot afford to pay for their release".* Moreover, in footnote 2 of the Memorandum, the Department of Justice is quite clear: *"Nothing in this letter is intended to suggest that courts may not preventively detain a defendant pretrial in order to secure the safety of the public or appearance by the defendant."* This is an important qualifier to the language of the Memorandum itself, and in no way implies that *secured* pretrial release is *not* an option.

In the spirit of the memorandum originally promulgated by the Justice Department, the posting of a surety bond by the accused subsequent to being charged with low-level misdemeanors, quasi-criminal ordinance violations, or civil infractions may be inconsistent with the interests of justice. There are other types of pretrial release mechanisms to address those particular issues.

However, the *real* question then becomes what mechanism(s) *may* be utilized to best ensure the three-pronged goals of public safety, defendant accountability, and the appearance of the defendant for those who are charged with *more serious types of crimes*?

Unsecured pretrial release programs typically rely heavily on the use of "an empirically developed risk assessment instrument." This risk assessment instrument is at the very core of many such programs. The use of a risk assessment tool typically attempts to answer three questions. Does the risk assessment tool predict pretrial failure; does it distinguish between low, moderate, and high risk defendants and their relative failure rates; and does it predict pretrial failure among different subgroups? The answer to all three of these questions was a resounding *no*. So the very risk assessment tool relied upon to determine pretrial success or failure simply does not work as designed. (Community Resources for Justice, Boston, 2016). It does not do what it is intended to do. Amazingly, however, the courts *still continue to use this instrument*

even though it does not accomplish what it purports to do. For example, the study by Stevenson, showed that risk assessment had no effect on racial disparities in pretrial detention once differing regional trends were accounted for, and that the increase in releases was not cost-free: failures to appear and pretrial crime increased as well. [5]

An analysis of bond failure rates in Harris County Texas illustrates that there are distinct differences in failure rates between defendants released on secured bond versus those released on unsecured bond.

Bond Failure Rates in Harris County, Texas, Since Implementation of the Preliminary Injunction in *ODonnell v. Harris County*, No. 16-1414 (S.D. Tex.)
Failure rates from June 6, 2017 to April 30, 2018*

Bond Type	Failure Type	# Bonds Approved	Failure Count	Failure Rate
Secured Bond	**Forfeiture**	**17,729**	**1,777**	**10.02%**
	Revocation	17,729	487	2.75%
	Surrender	17,729	194	1.09%
	Order of Court	17,729	3	0.02%
	Total Failure Rate	*17,729*	*2,461*	*13.88%*
Unsecured Bond — Sheriff	**Forfeiture**	**12,577**	**6,201**	**49.30%**
	Revocation	12,577	335	2.66%
	Order of Court	12,577	12	0.10%
	Total Failure Rate	*12,577*	*6,548*	*52.06%*

[5] Certainly, there are wide-ranging degrees of quality in terms of risk assessment tools as far as pretrial defendants are concerned. Counties are, therefore, urged to examine the methodologies surrounding and underlying the development of these risk assessment tools in order to determine whether or not the risk assessment instrument addresses the measurement issues of validity and reliability. Risk assessment tools vary along the dimensions of whether they are qualitatively or quantitatively based, and whether they accurately predict the extent to which defendants are appropriately classified with respect to success or failure on pretrial release status. In this particular research, the assessment of risk was not incorporated into the analysis for one simple reason: risk-based assessment data was not available in the online databases that were used to query and generate the study's overall sample of over 9,400ncases. Perhaps in the future, such data will be available in order to assess the overall assessment of risk in pretrial release decisions and whether pretrial defendants are appropriately classified.

A similar analysis by Carmichael et al (2017) demonstrated that there were substantial differences between bail forfeiture rates under a financial release system (Tarrant County, Texas) and a risk-informed release system (Travis County, Texas). Specifically, Carmichael *et al* in their analysis of pretrial practices in the state of Texas argue that regarding bond forfeiture,

Table 5. Bail Forfeiture among Defendants on Bond

	Financial Release System (Tarrant County) (n=69,906)	Risk-Informed Release System (Travis County) (n=43,612)
BAIL FORFEITURE	11.6%	17.5%

> "In Travis County's risk-informed release system, costs are driven up by a bond forfeiture rate (17.5%) that is 6 percentage points higher than Tarrant County's financial release system (11.6%). With financial interests at stake, it appears commercial bond companies do a better job ensuring clients are present in court. Conversely, the risk-informed system releases ten times more people, most of whom are unmonitored while awaiting trial. The volume of people freed in Travis County's risk-informed system, combined with their relative independence, may increases opportunity for missed court appearances" (Carmichael, et al, 2017:27).

If one cuts through the glitz and glitter of unsecured pretrial release programs, the use of unsecured pretrial release programs may, by virtue of the way that they are structured, impose an undue burden on a pretrial defendant's release which may, in turn, create hardship on the defendant, even though the defendant has not been convicted of any crime. If the defendant's case is on pretrial release status, *there has been no adjudication of guilt by any court of competent jurisdiction.* Ironically, these "conditions" are most typically *associated with those persons whose cases have been adjudicated and who are on some type of post-conviction community control*:

(a) Placing the defendant in the custody of a designated person or organization agreeing to supervise the defendant;
(b) Place the defendant under the supervision of a presentence or probation officer, *even though there has been no adjudication of guilt;*

(c) Place restrictions on travel, associations, activities, consumption of alcoholic beverages and drugs, or place of abode during the period of release;
(d) Requiring periodic reports from the defendant to an appropriate agent of the court or the defendant's attorney;
(e) Requiring psychiatric or medical treatment of the defendant;
(f) Requiring the defendant to provide suitable support for the defendant's family to be supervised by an officer of the court or Family Court with the consent of the court;
(g) Impose *any other condition deemed reasonably necessary to assure appearance as required to carry out the purpose of this chapter.* (italics added) [6]

Furthermore, it could reasonably be argued that costs associated with unsecured pretrial release could, theoretically, be passed on to the program's clients. To a degree, this is partially true. However, the problem with that line of reasoning is that the costs that are passed on to the clients themselves may ultimately *exceed* the costs associated with obtaining a surety bond.

Moreover, the claim that *overwhelming numbers of people* are languishing away in jail because they cannot financially afford the costs of a surety bond because they have allegedly committed a high-grade misdemeanor, or a non-capital felony is completely untenable. There are simply too many options that allow surety bonding agencies to be flexible in their approach to funding a surety bond, including the development of a state-based fund for indigent clients that could be funded in part by the surety bonding industry, not the taxpayers. Furthermore, if defendants are actually detained pretrial, is it because they cannot afford the cost of a surety bond or is it because there are other collateral risks associated with their release? [7]

Based upon the way that an unsecured pretrial release program is funded and administered, an *unsecured* pretrial release program may be viewed as a "public good", such that

[6] This last stipulation (condition "g") is particularly problematic, especially since the language and wording is both vague and overly broad. A court would most likely hold that this condition would be "void for vagueness".
[7] One could arguably make the case that the person most qualified to assess defendant "risk" is the judge, separate and apart of any risk assessment instrument. It is the judge who has immediate access to computerized criminal histories and can be expected, based upon his/her legal training and judicial experience, to render a pretrial release decision that will further the interests of justice, the public safety interests of the community, and the individual circumstances surrounding any given defendant.

if one person receives the benefit, everyone gets the benefit regardless of whether or not they pay for it or even avail themselves of its use. In other words, the benefit of unsecured pretrial release cannot be withheld from anyone. There is a problem with this, however. Not everyone breaks the law. So why should taxpayers who *don't* break the law have to actually pay for something that they will never use?

The following table breaks down the documented operating costs of unsecured pretrial release programs across the state of Florida over a three-year period, from 2015 through 2017. The data in this table are striking. These data overall show that over a three-year period, the operating budgets of the unsecured pretrial release programs in the state of Florida exceeded 95 million dollars. These programs served slightly more than 202,000 clients over the same three-year period. Looking at these same data from a different angle, the costs to operate unsecured pretrial release programs across the state of Florida over a three-year period are roughly $87,000 *per day*.

Table 1

Total Operating Budgets for Florida Counties with Unsecured Pretrial Release Programs [8]

2015, 2016, and 2017 Calendar Years

County	2017 Budget	2017 Clients	2016 Budget	2016 Clients	2015 Budget	2015 Clients	3-Year Budget	3-Year Clients
Alachua	1,673,351	1463	1,512,392	1,466	1,564,816	1,396	4,750,559	4,325
Bay	83,355	1663	82,946	1,676	60,000	1,595	226,301	4,934
Brevard	124,000	2647	120,389	2,340	120,389	2,514	364,778	7,501
Broward	6,495,125	5981	6,554,666	6,180	6,379,989	6,171	19,429,780	18,332
Charlotte	560,014	337	511,963	283	346,495	221	1,418,472	841
Citrus	94,882	71	174,366	88	71,401	88	340,649	247
Collier	319,564	334	302,282	415	255,900	413	877,746	1,162
Duval	952,539	2179	962,130	1,698	1,022,229	1,770	2,936,898	5,647

[8] State of Florida, Office of Program Policy Analysis and Government Accountability, Report Number 16-10 (December, 2016), Report Number 17-12 (December 2017), and Report Number 18-06 (November 2018)

Escambia	587,027	3469	579,733	3,534	482,101	3,555	1,648,861	10,558
Flagler	67,870	409	67,733	536	64,348	489	199,951	1,434
Highlands	115,098	600	100,498	554	97,478	314	313,074	1,468
Hillsborough	101,000	178	147,484	273	150,238	345	398,722	796
Lee	2,393,352	3286	2,382,118	3,281	2,224,719	3,227	7,000,189	9,794
Leon	1,043,443	1724	1,129,194	1,559	1,050,226	1,508	3,222,863	4,791
Manatee	566,692	2333	545,118	2,476	560,373	2,833	1,672,183	7,642
Miami Dade	5,129,400	10367	4,944,576	10,568	4,569,153	10,741	14,643,129	31,676
Monroe	553,478	979	537,638	838	560,867	878	1,651,983	2,695
Okaloosa	403,358	1101	396,742	970	364,284	1,090	1,164,384	3,161
Orange	2,110,217	2047	1,845,259	1,624	1,936,388	1,741	5,891,864	5,412
Osceola	403,358	3568	426,108	3,355	428,847	2,764	1,258,313	9,687
Palm Beach	1,382,595	7021	1,371,396	6,126	1,344,170	6,300	4,098,161	19,447
Pinellas	2,365,704	3962	2,098,454	4,194	1,305,054	4,090	5,769,212	12,246
Polk	1,129,618	4540	1,093,602	4,682	1,093,602	No Data	3,316,822	9,222
Putnam	486	3	248	2	0	1	734	6
Santa Rosa	128,384	848	110,287	630	104,377	827	343,048	2,305
Sarasota	1,477,012	2584	1,441,891	2,384	1,382,632	2,283	4,301,535	7,251
Seminole	389,694	1019	355,361	1,103	457,723	106	1,202,778	2,228
St.Lucie/Okeechobee	762,780	810	783,850	685	795,207	818	2,341,837	2,313
Volusia	1,478,853	4849	1,555,348	5,645	1,383,328	4,750	4,417,529	15,244
TOTALS	**32,892,249**	**70,372**	**32,133,772**	**69,165**	**30,176,334**	**62,828**	**95,202,355**	**202,365**
AVERAGES	**1,134,215**	**2,427**	**1,108,061**	**2,385**	**1,077,726**	**2,244**	**3,282,840**	**6,978**

One of the problems with unsecured pretrial release programs that are enacted under state law is that oftentimes there is no specified funding mechanism or funding stream associated with the program's implementation. The lack of an identified funding stream to implement such legislation is relevant, significant, and problematic. *In essence, any piece of legislation without a price tag attached to it is an "unfunded mandate" and will have to ultimately be paid for by the taxpayers.* The use of unsecured pretrial release does one and only one thing from a financial point of view – *it increases the tax burden on taxpaying citizens, and even on those who do not violate the law and who will never avail themselves of such a service*. Even if the tax base

remains stable, there is an increased tax burden on law-abiding citizens by paying for a program that they will never use.

Implementing a government-funded unsecured pretrial release program will most assuredly and unnecessarily increase the tax burden on taxpaying citizens across the board. Taxpayers will have to pay for this somehow, even if they don't ever avail themselves of its use. Implementing legislation of this type, as an unfunded mandate, will increase the budget deficit at the state, county, or municipal levels of government, and will continue to do so unabated over time.

As an alternative, *secured* pretrial release in the form of surety bonding ensures that only those who use the service will actually pay for it. Secured pretrial release ensures that the defendant has "a skin in the game" and promotes public safety and defendant accountability, while at the same time, reducing the tax burden on a state's citizens by not adding to the budget deficit. Taxpaying citizens *do not have to pay one single dime* to use secured pretrial release unless they avail themselves of its use. Fundamentally, this study will demonstrate that on an overall basis, secured pretrial release has simply gotten a bad rap, based on distortions, misrepresentations, and unsubstantiated supposition that make no sense in light of the existing data and facts.

Largely looming in the debate regarding the use of secured pretrial release is the question of whether defendants languish away in terms of their pretrial detention, and whether there are substantive differences between defendants who are released without surety versus those defendants who obtain a surety bond. This research attempts to address these particular issues.

RESEARCH METHODS

Data were collected from all Florida county jail facilities which had publicly available online search and query tools to determine the date of booking and the date of release of the defendants over a one-year (52-week) period of time, from October 1, 2017 through September 30, 2018. From each of these twenty-nine Florida counties' jail facilities that had publicly available search tools for their searchable jail databases, there were three five-day search periods over this one-year period that were randomly selected for data collection and analysis. Accordingly, fifteen days of inmate data in each of these Florida county jail facilities over the12-month period were generated for subsequent analysis yielding a final case total of 9.437 unduplicated jail detainee records.[9]

For each of the Florida counties included in this study, three separate weeks during this fifty-two-week period were randomly selected. Within each of those three separate weeks, a specific weekday was also randomly selected. Using that randomly selected weekday within the randomly selected week as a pivot point, two days *prior* to the pivot date and two days *after* the pivot date were selected, along with the pivot date itself, for the collection and analysis of data for inmates that were in detention during that five-day period within that county. [10]

Data collection took place between October and December, 2018, and included the following variables: the name of the Florida county; whether the county had a reported unsecured pretrial release program; the defendant booking number; date of defendant booking

[9] Florida counties included in the research were as follows: Bradford; Brevard; Columbia; Flagler; Gadsden; Gilchrist; Glades; Hernando; Hamilton; Hendry; Hillsborough; Indian River; Lake; Lee; Levy; Manatee; Nassau; Okaloosa; Palm Beach; Pasco; Pinellas; Polk; Putnam; Santa Rosa; Sarasota; St Johns; Sumter; Suwanee; and Walton.

[10] Based upon the methodology in this research, the following weekdays (and their frequency of occurrence) as pivot days were randomly selected: Sunday (9), Monday (12), Tuesday (12), Wednesday (13), Thursday (14), Friday (11), and Saturday (16).

and date of defendant release;[11] defendant sex and defendant race; defendant date of birth; defendant age at time of booking; whether there was some type of "hold" on the detainee at time of booking; whether the inmate was serving a sentence; the total number of charges against the defendant; the total amount of defendant's bond on all charges; the defendant's ethnicity; and the status of a the defendant's case in terms whether the defendant was released pretrial on recognizance or to an unsecured pretrial release program, whether the defendant was released on a surety bond, whether the defendant was on some type of "hold" status, or whether the defendant had been sentenced and was serving time in confinement.

Sample Description

An analysis of the data indicates that the sample was predominately from urban and suburban counties (74.8%) and was from a county that had an unsecured pretrial release program according to the designation by OPPAGA (78.1%). The sample was predominately Caucasian (65.1%) and male (72.6%). The average (mean) age of booking was 35.74 years, and the average (mean) number of days spent in detention was 20.22 across *all* detainees. On average, detainees were facing 1.87 charges each, and faced an average (mean) bond amount of just under 3,000 dollars. Just under thirty percent of the overall sample was in confinement on "hold" status or serving a sentence subsequent to adjudication.

The data further indicate that there are some divergences between measures of central tendency (mean, median and mode) [12] amongst these different variables. For example, while the

[11] Assume that a defendant was booked into jail on November 6th and was released on November 9th. The defendant was in detention for all, or part of, four days. Simply subtracting the date of booking from the date of release would only show three days, and not four. Hence, for this research, the number of days in detention was calculated by subtracting the date of booking from the date of release, and adding "1" to it, as follows: DETENTION DAYS = (RELEASE DATE – BOOKING DATE) +1.

[12] The mean is the arithmetic average of the entire distribution; the mode is the most frequently appearing score in the distribution; and the median is that particular score wherein half of the distribution lies above it, and half of the distribution lies below it.

mean number of detention days across the sample was 20.22 days, the *median* number of days was 3 days, and the *mode* number of days was 1 day. Similarly, the mean age at booking across the entire distribution was 35.74, while the median was 33, and the mode was 28 years old while the mean average total bond amount was 3,009 dollars, while the median was 320 dollars. There was no mode on this particular variable. These findings indicate that the data are skewed toward the higher ends of the continua on a number of different variables.

Sample "Snapshots"

For purposes of analysis, one of the goals of the research was to determine the extent to which the relationships between the variables within the study were statistically significant. The concept of statistical significance is the extent to which the relationship surpasses sheer randomness and could have occurred by chance. A relationship is considered to be "statistically significant" if the probability of the finding occurring by chance is fewer than five times in a hundred ($p<.05$).

One of the problems with using large samples such as this one is that as a sample size increases, it requires a lower magnitude relationship to be defined as "statistically significant" than it does in a smaller- sized sample.[13] In a smaller sample, the magnitude of the relationship between the variables needs to be stronger in order for it to be defined as being statistically significant at any given level. Accordingly, three additional "snapshot" samples are included as far as the analysis is concerned. One sample is a 20 percent random sample of the larger data domain, and the other two are a ten and five percent random sample of the larger dataset.

[13] The concept of "statistically significant differences" (i.e., rejecting the null hypothesis) states that differences in group means are not likely due to sampling error, and that the findings did not occur by chance. The problem is that statistically significant differences can be found even with very small differences if the sample size is large enough.

RESULTS

Frequency Distribution Analysis

An analysis of the overall dataset indicates that defendant data may be classified according to their release and confinement statuses, according to Table 2: (1) unsecured pretrial release whether to a pretrial release program or release on recognizance; (2) secured release on a surety bond; (3) confinement based on a defendant "hold"; (4) confinement based on the defendant's case being adjudicated and sentenced to confinement. Also included was an additional fifth category that established whether a defendant was in pretrial detention for a period that was greater than or equal to thirty days and who were awaiting release but were unable to post the required bond. These data are displayed as follows:

Table 2
Defendant Case Status by Release/Confinement Category
(n=9,373)

CATEGORY	N	PCT.
Unsecured Pretrial Release	1,355	14.5
Secured Pretrial Release	4,104	43.8
Defendant "Hold"	1,576	16.8
Defendant Sentenced	2,185	23.3
Prolonged Pretrial Detention	153	1.6
Total	9,373	100.0

This data indicates that just under fifty percent (43.8) of detainees were released prior to trial by acquiring a surety bond to secure their release. Slightly less than one-quarter of detainees (23.3) were serving a sentence of confinement subsequent to adjudication. Another seventeen percent (16.8) were on some type of lawfully imposed "hold" status underlying their confinement while just under fifteen percent (14.5) were released outright on an unsecured basis prior to trial.

Finally, the data indicate that 1.6 percent of defendants were in pretrial detention for over thirty days because they could not secure their pretrial release.

According to Table 3, when it comes to the number of days spent in jail, 55.8 percent of the sample of 9,436 defendants spent between one and three days in jail prior to release. Another 9 percent of the sample spent between 4 and seven days in confinement. These two categories account for nearly two-thirds of the entire sample.

Table 3
Days Spent in Detention by Group

	N	Valid Percent	Cumulative Percentage
1 - 3 Days	5,266	55.8	55.8
4 - 7 Days	845	9.0	64.8
8 - 15 Days	744	7.9	72.6
16-25 Days	652	6.9	79.6
26-39 Days	533	5.6	85.2
40 - 60 Days	448	4.7	90.0
61 - 79 Days	274	2.9	92.9
80 - 100 Days	177	1.9	94.7
101 - 125 Days	124	1.3	96.0
126 - 150 Days	93	1.0	97.0
151 - 175 Days	141	1.5	98.5
176 - 200 Days	45	.5	99.0
201 - 250 Days	36	.4	99.4
251 - 300 Days	37	.4	99.8
301 – 360 Days	21	.2	100.0
Total	9,436	100.0	100.0

Differences between the Means

The statistic known as the t-test will be used in order to evaluate whether these two different comparison groups are statistically similar or dissimilar with respect to each other

relative to the means, or averages, on each of the different variables. In terms of hypothesis testing, the logic may be depicted as follows:

H_0: $\mu_1 - \mu_2 = 0$, where H_0 is the null hypothesis, and μ_1 and μ_2 are the statistical means of groups 1 and 2, respectively.

The two groups themselves are considered to be statistically equivalent, such that if the critical value of the t-test does not surpass the specified level at the standard .05 level of statistical significance.[14] For purposes of this analysis, a two-tailed test of significance (as opposed to a one-tailed test) is used because no directionality is being hypothesized or predicted as far as the different means are concerned. It is important to note, however, that the t-test actually assesses the extent to which the means, or averages, are statistically different from one another when comparing counties with unsecured pretrial release programs with those counties that do not have them. The t-test assesses only the extent to which the differences between the means are statistically meaningful and not simply random differences between them. Thus, the t-test says nothing about the degree of association or cause-and-effect relationships between the variables under consideration.

A slightly different picture emerges if one examines the average (mean) days of detention by each of the different case categories. These results are displayed in Tables 4-A, 4-B, and 4-C. In general, these tables show consistency in terms of the different measures of central tendency and dispersion, regardless of whether we examine the overall sample, the twenty percent sample, or the ten percent sample.

[14] A level of statistical significance of $p < .05$ means that the finding could have occurred by chance less than five times out of 100. A level of $p < .01$ means that the finding could have observed by chance less than one time in 100. A level of $p < .001$ indicates that the finding could have occurred less than one time in 1,000. A level of $p < .05$ is the minimum level that indicates statistical significance.

Table 4-A
Average Days in Detention by Release/Confinement Category
Overall Sample

Case Outcome Category	Mean	N	Standard Deviation	Median
UNSECURED PRETRIAL RELEASE	2.12	1355	1.345	2.00
BONDED OUT (SURETY)	1.99	4104	1.256	2.00
HOLD	21.56	1576	29.337	14.00
SENTENCED	61.53	2184	61.608	41.00
LONG-TERM DETAIN, BOND AVAILABLE	66.23	153	53.451	48.00
TOTAL	20.22	9,372	41.253	3.00

This particular table shows that there is an observable difference between the time spent in detention prior to unsecured pretrial release (2.12 days) when compared with the time spent in detention prior to pretrial release on surety bond (1.99 days). Although the difference appears to be minimal, the difference is, nevertheless, statistically significant (t=3.164, p<.01).

As in Table 4-A, Table 4-B, Table 4-C, and Table 4-D show minimal, but statistically significant differences, between the two means in both the twenty percent sample and the ten percent sample. The results in each of these tables indicate that detainees awaiting release in some type of unsecured pretrial release status spend slightly longer in detention than do detainees who are awaiting release on a secured pretrial release mechanism. This observation does not apply in Table 4-D.

Table 4-B
Average Days in Detention by Release/Confinement Category
20 Percent Sample

Case Outcome Category	Mean	N	Std. Deviation	Median
UNSECURED PRETRIAL RELEASE	2.28	280	1.493	2.00
BONDED OUT	1.93	822	1.241	2.00
HOLD	22.13	325	33.350	14.00

SENTENCED	61.93	447	62.677	44.00
LONG TERM DETAIN, BOND AVAILABLE	55.56	27	32.948	41.00
Total	20.30	1901	41.803	3.00

Table 4-C
Mean Difference of Time Spent in Jail Prior to Release on Unsecured PTR versus Surety Bonding
10 Percent Sample

Case Outcome Category	Mean	N	Std. Deviation	Median
UNSECURED PRETRIAL RELEASE	2.29	146	1.513	2.00
BONDED OUT	1.93	392	1.249	2.00
HOLD	22.21	166	32.987	13.00
SENTENCED	64.64	218	65.618	46.50
LONG TERM DETAIN, BOND AVAILABLE	51.56	12	48.164	39.50
Total	20.94	934	43.460	3.00

Table 4-D
Mean Difference of Time Spent in Jail Prior to Release on Unsecured PTR versus Surety Bonding
5 Percent Sample

Case Outcome Category	Mean	N	Std. Deviation	Median
UNSECURED PRETRIAL RELEASE	1.05	75	.853	2.00
BONDED OUT	2.01	182	1.323	2.00
HOLD	21.43	68	29.213	13.00
SENTENCED	59.96	133	68.032	46.50
LONG TERM DETAIN, BOND AVAILABLE	47.67	3	17.502	39.50
Total	21.88	461	45.818	3.00

Comparing the means within each of the case outcome categories side-by-side based on the overall, twenty percent, ten percent and five percent samples reveals the following in Table 5.

Table 5
Comparison of Means on Case Outcome Categories across All Study Samples
Overall, Twenty Percent, Ten Percent and Five Percent Samples

	Overall Sample	20% Sample	10% Sample	5% Sample
Unsecured PTR	2.12	2.28	2.29	1.95
Secured PTR	1.99	1.93	1.93	2.01
Hold	21.56	22.13	22.21	21.43
Sentenced	61.53	61.93	64.64	59.96
Long-Term Detention	66.23	55.56	61.50	47.65

Table 5 indicates that the means within the first four categories are fairly stable from one sample to another. The only observable fluctuation from one sample to the next is in the last category, Long Term Detention. This fluctuation is ostensibly due to the low number of cases in this particular category across each of the samples.

Tables 6-A through 6-D display of a comparison of means from one sample to another (overall, 20 percent, 10 percent, and 5 percent) relative to the number of days spent in jail on unsecured pretrial release and the number of days spent in jail awaiting release on some type of secured PTR mechanism. Table 6-A shows that the mean of 2.12 days spent in detention awaiting release into an unsecured pretrial release status is statistically greater than the time spent in detention pending release on some type of secured pretrial release mechanism (1.99 days). This difference is statistically significant at the .01 level of statistical significance based upon a t-value of 3.164.

Table 6 - A
Mean Difference of Time Spent in Jail Prior to Release on Unsecured PTR versus Surety Bonding
Overall Sample

Case Category	N	Mean	Std. Deviation	Std. Error Mean
UNSECURED PRETRIAL RELEASE	1355	2.12	1.345	.037
BONDED OUT	4104	1.99	1.256	.020

The difference between the two case categories using the twenty and ten percent "snapshot" samples (Table 6-B and Table 6-C) are also statistically significant (twenty percent sample, t=3.485; $p<.01$) (ten percent sample, t=2.561; $p<.05$) and yet illustrates an even greater difference between the time spent in jail prior to pretrial release as opposed to the time spent in jail prior to being released on a surety bond but not when using a five percent "snapshot" sample (Table 5-D; t= -.423; $p>.05$).

Table 6-B
Mean Difference of Time Spent in Jail Prior to Release on Unsecured PTR or Surety Bonding "Snapshot" Sample (20%)

Case Category	N	Mean	Std. Deviation	Std. Error Mean
UNSEC PRETRIAL RELEASE	280	2.28	1.493	.089
BONDED OUT	822	1.93	1.241	.043

Table 6-C
Mean Difference of Time Spent in Jail Prior to Release on Unsecured PTR or Surety Bonding "Snapshot" Sample (10%)

Case Category	N	Mean	Std. Deviation	Std. Error Mean
UNSECURED PRETRIAL RELEASE	146	2.29	1.513	.125
BONDED OUT	392	1.93	1.249	.063

Table 6-D
Mean Difference of Time Spent in Jail Prior to Release on Unsecured PTR or Surety Bonding "Snapshot" Sample (5%)

Case Category	N	Mean	Std. Deviation	Std. Error Mean
UNSECURED PRETRIAL RELEASE	75	1.95	.853	.098
BONDED OUT	182	2.01	1.323	.098

Table 7 shows, by county, the mean difference of time spent in jail prior to release on either some type of unsecured pretrial release when compared to release from jail on a surety bond. Based on the number of defendants from the different counties across the state, the actual magnitude of difference between the means themselves demonstrate that the average amount of time spent getting out of jail on a surety bond is less than the time waiting for some type of unsecured pretrial release. This distinction is observable in eighteen out of twenty-five counties, with seven t-tests resulting in statistically significant differences. In seven out of twenty-five counties, defendants were able to get out of jail earlier on some type of unsecured pretrial release mechanism as opposed to release on surety bonding; however, only two t-tests resulted in statistically significant findings.

Table 7
Mean Difference of Time Spent in Jail Prior to Release on Unsecured PTR or Surety Bonding by Detainees in 29 Florida Counties

COUNTY	MEAN - UNSECURED PRETRIAL/N	MEAN – SURETY BOND/N	t-VALUE	STATISTICAL SIGNIFICANCE LEVEL [15]
Bradford	N/A	N/A	N/A	
Brevard	2.42/130	2.25/353	1.237	N.S., p>.05
Columbia	3.38/16	2.20/64	2.042	N.S., p>.05
Flagler	1.75/29	1.39/54	2.051	*p<.05*
Gadsden	1.88/17	1.86/21	.081	N.S., p>.05
Gilchrist	N/A [16]	N/A	N/A	
Glades	N/A	N/A	N/A	
Hamilton	1.93/15	1.91/22	.058	N.S., p>.05
Hendry	N/A	N/A	N/A	
Hernando	2.69/13	1.87/91	2.239	*p<.05*
Hillsborough	2.84/70	2.05/647	3.635	*p<.001*
Indian River	3.35/20	1.44/63	4.799	*p<.001*
Lake	3.78/27	1.03/103	5.171	*p<.001*
Lee	2.06/82	1.73/223	2.549	*p<.05*
Levy	N/A	N/A	N/A	
Manatee	2.12/58	1.99/180	.782	N.S., p>.05
Nassau	1.21/14	1.78/50	-2.631	*p<.05*
Okaloosa	1.43/21	1.50/168	-.314	N.S., p>.05
Palm Beach	1.76/364	2.09/344	-3.777	*p<.05*
Pasco	1.71/14	2.13/173	-1.151	N.S., p>.05
Pinellas	2.02/206	1.95/504	.704	N.S., p>.05
Polk	2.88/58	2.54/388	1.754	N.S., p>.05

[15] N.S., p>.05 indicates that the difference between the means was *not* statistically significant at the minimum level of statistical significance, thereby indicating that the difference between the two means could have occurred by chance alone or was simply a random occurrence.

[16] N/A indicates that the t-test could not be calculated because of the parameters surrounding the test itself.

Putnam	4.17/6	2.02/63	4.006	N.S., p<.01
St. Johns	2.50/6	1.64/97	1.014	N.S., p>.05
Santa Rosa	2.57/51	2.06/98	2.206	p<.05
Sarasota	1.46/95	1.59/200	1.264	N.S., p>.05
Sumter	2.27/11	2.00/60	.593	N.S., p>.05
Suwanee	1.67/9	1.86/31	-.558	N.S., p>.05
Walton	2.56/9	1.55/53	1.647	N.S., p>.05

Thus, from county to county among the twenty-nine Florida counties sampled in this study, there is no indication whatsoever that pretrial release defendants are systematically languishing away in pretrial confinement because they cannot, for some reason, afford some type of *secured* pretrial release mechanism. In other words, these data show the exact opposite. Of the nearly ten thousand defendants included in this sample from across twenty-nine different counties, there were 153 defendants that were confined for over a period greater than 30 days and for which no bond had been secured. Interestingly enough, the judge under the Florida statute [17] does have the statutory authority to release a pretrial defendant on his/her own recognizance but chose not to do so. These 153 defendants comprised a total of 1.6 percent of the entire sample of detainees from across twenty-nine Florida counties based on randomly selected dates over an entire calendar year period.

Prolonged Detention - Who Are They?

The data indicate that that there were six counties from the overall sample of the twenty-nine Florida counties in this study that accounted for over two-thirds of detainees that spent prolonged time in pretrial detention without being released or sentenced. These counties were Brevard (n=17, 11.1 percent), Hernando (n=15, 10.5 percent), Manatee (n=13, 8.5 percent), Palm Beach (n=9, 5.9 percent), Pinellas (n=29, 19.0 percent) and Polk (n=11, 7.2 percent). [18] Of these

[17] Florida Statutes, 903.047

[18] Other Florida counties with defendants with prolonged stays in detention without release include Bradford, Columbia, Flagler, Gadsden, Hamilton, Hillsborough, Indian River, Lake, Lee, Levy, Nassau, Pasco, Putnam, Santa Rosa, Suwanee, and Walton.

six different counties, five of them (Brevard, Manatee, Palm Beach, Pinellas, and Polk) have unsecured pretrial release programs currently in place. Moreover, 108 of the 153 detainees (68.6 percent) were from counties in the sample with unsecured pretrial release programs. The group of detainees was predominately white (64.1 percent), male (73.9 percent), in their mid-'thirties, and faced, on average, three charges and an average bond amount of six thousand dollars. Finally, this group spent, overall, an average of 48 days in pretrial detention.

Testing Relationships between Variables Using Measures of Association

While useful in establishing whether there are significant differences between the means of two groups on some particular criterion or outcome variable, there is no way that one can determine the nature and strength of the relationship between the variables themselves, or if there are any statistical relationships at all. In order to ascertain the degree or strength of relationship between the different variables, some statistical measure to assess covariation, or association, needs to be employed. One typical method by which to establish the degree of association or covariation between two (or more) variables is through the use of correlation-based statistics. Correlation, or covariation, assessment statistical techniques are the fundamental building blocks for more higher-order statistical techniques such as simple and multiple regression which are typically utilized in the development of certain types of statistical models.

Measures of correlation are typically based on the formula for a straight line which is the mathematical foundation of the general linear model. A variation of the more generic formula, Y = f(X), the root, or base, formula for a correlation coefficient is typically denoted as $Y = bX + a$, where Y is the predicted value, "*b*" is the weight of the variable, X is the value of independent variable, and "*a*" is the intercept on the x-axis. Simply stated, zero-order correlations are

measures of association between two, and only two, variables. The magnitude of the correlation ranges from a value of -1.0 through zero, and on to +1.0. A correlation coefficient of -1.0 describes a perfect negative correlation while a correlation of +1.0 indicates a perfect positive correlation. In the instance of a perfect positive correlation, for every unit *increase* (or decrease) in one variable, there is an equal corresponding *increase* (or decrease) in the other variable. Both variables are moving in value in the same direction. However, in the example of a perfect negative correlation, for every unit *increase* in one variable, there is a corresponding unit *decrease* in the other one. In this situation, as the value of one variable goes up, the value of the other goes down.

In either case, whether positive or negative, the correlation coefficient indicates that for every unit change in X, there is a corresponding unit change in Y. Most importantly, correlation coefficients do not mean or even begin to suggest that variable X actually causes changes in variable Y, or that variable Y produces changes in variable X. The correlation coefficient simply means that the two variables, X and Y, are correlated, or associated, to some degree or extent. The correlation coefficient implies absolutely nothing about causality of X with respect to Y, or Y with respect to X. The zero-order correlation coefficient measures the relative strength and direction of association, or covariation, between two variables, X and Y, nothing more.

Zero-order correlations, while measuring the degree of association between two and only two variables, are valuable exploratory tools to discern any degree of statistical relationship between different variables. If one wishes to become more discerning, it is often useful to utilize what is known as a *partial* correlation. A partial correlation, also known as a first-order correlation, allows one to examine the relationship between two variables, X and Y, while adjusting for the effects of a third variable, say Z. The beauty of a partial correlation is that it

allows for theoretically an unlimited number of "control" variables to be introduced in order to assess the non-spurious nature of the relationship.

The basic idea behind a partial correlation is this: if the relationship between X and Y maintains its strength even while controlling for the presence of one or more "control" variables, then the relationship between X and Y, if undiminished statistically, is said to be non-spurious. If, on the other hand, the relationship between X and Y is diminished to the point that it is no longer statistically significant when the presence of other variables is controlled for in the model, then the original relationship between X and Y is said to be spurious. A spurious relationship, then, is a statistical relationship which appears on its face to be true but is really false after one (or more) variables are entered into the mix as statistical controls.

The use of zero-order and partial correlations will allow us to do several things in this study. First, we will be able to assess the nature and extent of any statistical relationship between the variables in this study. Moreover, it will be substantively meaningful to examine these statistical relationships in light of introducing certain control variables (such as the number of cases from each county and population size) which may diminish their overall statistical effect. In particular, this analysis will allow us to look at what happens to the statistical relationship between X and Y, when we statistically control for whether the county has an unsecured pretrial release program or not. Finally, these statistical tools will allow us to scrutinize more closely the findings that were obtained using the t-test.

To this extent, zero-order correlation and partial correlation statistical techniques will be utilized in order to assess the strength and magnitude of any given relationship between whether a county has a pretrial release program and a number of other correlates. As with the t-test

procedures that were used earlier in this analysis, the correlation and partial correlation techniques will employ the p<.05 level of statistical significance (two-tailed).

One question that needs to be addressed is to what extent are the variables in the dataset related to one another in any meaningful and systematic fashion. In this analysis, there were eleven variables under consideration: the population tier of the county in which the detainee was arrested; whether that particular county had an unsecured pretrial release program; the number of days in detention; the detainee's age, sex, and ethnicity; whether the detainee was in jail based upon a "hold" or if the detainee had been sentenced; the total number of charges and the total bond amount; and the case status outcome.

The results of the bivariate correlation analysis indicated that while there were a number of zero-order correlations that were statistically significant at the minimum level of $p<.05$, their actual practical or substantive utility were generally of limited or marginal value. [19] Remembering that statistical significance is a function of sample size, there were actually 34 correlation coefficients that were statistically significant when looking at the overall sample of over 9,300 cases. Of those 34 statistically significant correlation coefficients, only two of them actually were greater than an absolute value of .316. [20] These included the following

[19] As mentioned earlier, statistical significance refers to the extent to which the magnitude of the correlation merely surpasses sheer randomness. To get an estimate of the *substantive* significance of the correlation, one needs only to take the correlation coefficient, multiply it by itself, and then multiply that resulting number by 100. This gives an estimate as to the proportionate amount of variance explained in the dependent variable (Y) by the independent variable (X). That number is expressed as a percentage. The amount of variance can range from 0 percent to 100 percent. As an example, a correlation coefficient of r = .50 between X and Y indicates that X explains 25 percent of the variance in Y. We know this because (.50 *.50) *100 = 25 percent. A corollary to this is that the variance *unexplained* in Y by X equals 100 – 25, which is 75 percent. That means that 75 percent of the variance in the dependent variable is explained by some variable, other than X. Also, remember that as the sample size increases, it requires a lower magnitude relationship in order for the correlation coefficient to be *statistically* significant in a non-random basis. However, whether the relationship is *substantively* significant is another matter altogether and is better addressed in terms of examining the proportion of the variance explained in the dependent variable (Y) by the independent variable (X).

[20] The correlation coefficient of .316 was chosen because the amount of variance explained by this correlation coefficient (using the computational formula in footnote 11) was a very modest ten percent.

variables/relationships: population tier and whether the county had an unsecured pretrial release program ($r = .705$; $p<.001$); and, the number of days spent in detention and whether the defendant had been sentenced to jail time ($r=.408$; $p<.001$). It should be noted that among all of the 55 possible correlations between any two of the eleven variables in the overall dataset, no one single correlation coefficient explains more than fifty percent of the variance in any dependent variable by the independent variable.

A similar pattern emerges if one examines the zero-order correlation coefficients within the twenty percent sample. In this particular sample, 32 of the correlation coefficients were statistically significant at the minimum .05 level. Of these 32 correlation coefficients, only three of them had an absolute magnitude of greater than .316. These included, again, the relationship between whether the county had an unsecured pretrial release program and the population tier of that county ($r=.696$; $p<.001$); the relationships between the number of days in detention and whether the defendant had been sentenced ($r=.397$; $p<.001$)) along with the respondent's case status outcome (.576; $p<.001$). Finally, the correlation coefficient between whether the defendant had been sentenced subsequent to adjudication and case status outcome was statistically significant ($r=.744$; $p<.001$). In this particular snapshot sample, only one independent variable explains more than fifty percent of the variance in any given dependent variable.

Using the ten percent sample, there were 21 statistically significant zero-order correlation coefficients out of a possible 55. Of these 21, four of them had a magnitude that exceeded .316. These included the following: county population tier and whether the county had an unsecured pretrial release program ($r=.704$; $p<.001$); the number of days in detention and whether the detainee had been sentenced subsequent to adjudication ($r = .428$; $p<.001$); case status outcome and the number of days spent in detention ($r=.576$; $p<.001$); and finally, case status outcome and

whether the detainee had been sentenced (r=.749; p<.001). Only one of these correlation coefficients explained more than fifty percent of the variance between any given independent and dependent variable combination.

Finally, using the five percent sample, the same picture emerges. Of the 55 possible correlation coefficients between the eleven different variables, only 15 of them were determined to be statistically significant while only four exceeded the .316 level of magnitude. Again, it was the same four correlation coefficients that surpassed the minimally established .316 magnitude – between county population tier and whether the county had an unsecured pretrial release program (r=.702; p<.001); whether the detainee had been sentenced and the number of days in detention (r= .324; p<.001); the case status outcome and the number of days in detention (r=.538; p<.001); and the case status outcome and whether the detainee had been sentenced (r=.667; p<.001). The magnitude of these correlation coefficients indicate that only one single correlation coefficient accounted for more than fifty percent of the variance between any given independent and dependent variable.

In terms of sheer magnitude, there are three relationships involving three variables that are relatively stable from one sample to another: (1) the relationship between sentencing status and detention days; (2) the relationship between case outcome status and detention days; and (3) the relationship between sentencing status and case outcome status. Their respective zero-order correlation coefficients are displayed in Table 8. An examination of this table shows that these three variables – sentencing status, days in detention, and case status outcome – may be inextricably interrelated to one degree or another, whether a little, or a lot. Regardless of whether one looks at the entire sample, or whether one examines the snapshot subsamples at 20 percent, 10 percent, or 5 percent, the results show that the magnitude of the correlations between these

three variables remain consistently strong from one sample size to another. The essential task at hand is to see whether the correlations between two of the three variables remain at a consistently similar levels when controlling statistically for the effects of a third variable. Those results are displayed in Table 9.

Table 8
Relationship between Sentencing Status, Detention Days, and Case Status Outcome Across Different Levels of Sampling (100%, 20%, 10%, and 5%)

Sample	Independent Variable	Dependent Variable	Pearson r	Sig.
100 %	Sentencing Status	Detention Days	.406	p<.001
	Case Status Outcome	Detention Days	.098	p<.001
	Sentencing Status	Case Status Outcome	.222	p<.001
20%	Sentencing Status	Detention Days	.397	p<.001
	Case Status Outcome	Detention Days	.576	p<.001
	Sentencing Status	Case Status Outcome	.744	p<.001
10%	Sentencing Status	Detention Days	.428	p<.001
	Case Status Outcome	Detention Days	.576	p<.001
	Sentencing Status	Case Status Outcome	.749	p<.001
5%	Sentencing Status	Detention Days	.324	p<.001
	Case Status Outcome	Detention Days	.539	p<.001
	Sentencing Status	Case Status Outcome	.740	p<.001

If one examines the results shown in Table 9, a fundamentally different picture emerges when compared with the results in Table 8. For example, if one looks at the relationship between sentencing status and days in detention, there is a substantial drop in magnitude between the simple zero – order correlation between these two variables and the partial correlation when one controls statistically for the effects of case status outcome. This occurs regardless of whether one utilizes data from the total sample, or any of the snapshot samples at 20, 10, and 5 percent. Similar reductions in the strength of the zero-order correlations occur when one controls statistically for the effects of the presence of a third variable. The magnitude of the reductions, however, are not as noticeable as the drop-in strength between sentencing status and detention days when controlling for case status outcome.

What these results seem to suggest is that the relationships between these three variables, along with potentially the other variables in the dataset, are potentially more intricate than one would expect simply by looking a simple bivariate relationship between any two variables. The intricacy of the nature of the relationships between these different variables (and potentially others in the dataset) is illustrated by the fact that there were substantial reductions in the strength of the correlation coefficients when controlling statistically for the presence of a third variable.

Table 9
Relationship between Sentencing Status, Detention Days, and Case Status Outcome Across Different Levels of Sampling (100%, 20%, 10%, and 5%)
Pearson Zero-Order Correlations and Partial Correlations between Sentencing Status, Detention Days, and Case Status Outcomes

Sample	Independent Variable	Dependent Variable	Control For	Original r	Partial r	Sig.
100 %	Sentencing Status	Detention Days	Case Status Outcome	.406	.377	p<.001
	Case Status Outcome	Detention Days	Sentencing Status	.098	.134	p<.001
	Sentencing Status	Case Status Outcome	Days in Detention	.222	.153	p<.001
20%	Sentencing Status	Detention Days	Case Status Outcome	.397	-.060	p<.01
	Case Status Outcome	Detention Days	Sentencing Status	.576	.461	p<.001
	Sentencing Status	Case Status Outcome	Days in Detention	.744	.686	p<.001
10%	Sentencing Status	Detention Days	Case Status Outcome	.428	-.011	p>.05; n.s.
	Case Status Outcome	Detention Days	Sentencing Status	.576	.430	p<.001
	Sentencing Status	Case Status Outcome	Days in Detention	.749	.680	p<.001
5%	Sentencing Status	Detention Days	Case Status Outcome	.324	-.099	p<.05
	Case Status Outcome	Detention Days	Sentencing Status	.539	.449	p<.001
	Sentencing Status	Case Status Outcome	Days in Detention	.740	.702	p<.001

Ideally, a statistical model that could examine the singular effects of one independent variable on the dependent variable while holding constant the effects of other variables entered into the model would go a considerable distance in determining the intricacies of the relationships between the different variables in any given model that could be tested.

The Development of a Multivariate Statistical Model

There are several distinct statistical procedures that may be used to establish some type of predictive model that might enable us to assess the dynamic interplay between these different variables. In essence, these statistical procedures enable us to expand on the general linear model earlier identified and assess the relative impact of each of these different variables on a predicted outcome.

Multiple regression is a statistical technique that enables one to identify those statistically relevant variables which when entered into the analysis can be used to predict an outcome or score. This statistical tool also allows one to determine the relative weights of these different variables and the statistical impact that they have on a predicted outcome. Multiple regression is also capable of identifying potential anomalies as far as the relationships between the different variables are concerned, since the model holds constant the effects of multiple variables while the direct effects of any given variable are discerned. The form of the equation for regression is as follows:

$$\mathbf{Y} = b_1X_1 + b_2X_2 + b_3X_3 + b_4X_4 + \ldots + b_{n-1}X_{n-1} + b_nX_n + a,$$

where **Y** is the predicted value, or outcome; X is the value of any given variable in the model; *b* is the weight of the variable (also known as the unstandardized regression coefficient), and *a* is the intercept of the regression line on the X-axis.

In a model that uses *standardized* regression coefficients as opposed to unstandardized ones, an upper-case *B* replaces the lower-case *b,* such that the equation appears as follows:

$$\mathbf{Y} = B_1X_1 + B_2X_2 + B_3X_3 + B_4X_4 + \ldots + B_{n-1}X_{n-1} + B_nX_n$$

In this equation, the regression coefficients (or *B* coefficients) represent the *independent* contributions of each independent variable to the prediction of the dependent variable. Another way to express this fact is to say that, for example, variable X_1 is correlated with the *Y* variable,

after controlling for all other independent variables. This type of correlation is also referred to as a *partial correlation*. As with any statistical procedure, there are a number of assumptions that guide its use. These assumptions address the issue of the normality of the distribution, restrictions on number of variables, and multicollinearity, matrix ill-conditioning, and fitting centered polynomial models. The use of multiple regression as a method of statistical analysis is based upon its overall robustness as a statistical tool.

Based upon the concept of "goodness of fit", the smaller the variability of the residual values around the regression line relative to the overall variability, the better is our prediction. For example, if there is no relationship between the *X* and *Y* variables, then the ratio of the residual variability of the *Y* variable to the original variance is equal to 1.0. If *X* and *Y* are perfectly related, then there is no residual variance and the ratio of variance would be 0.0. In most cases, the ratio would fall somewhere between these extremes, that is, between 0.0 and 1.0. 1.0 minus this ratio is referred to as *R-square* or the *coefficient of determination*. For example, if we have an *R-square* of 0.4 then we know that the variability of the *Y* values around the regression line is 1-0.4 times the original variance; in other words we have explained forty percent of the original variability and are left with sixty percent residual variability. Ideally, we would like to explain most if not all of the original variability. Thus, the *R-square* value is an indicator of how well the model fits the data (e.g., an *R-square* close to 1.0 indicates that we have accounted for almost all of the variability with the variables specified in the model).

Based upon the structure of the general linear model, the regression line that minimizes the squared distances between the different data points and the line itself expresses the best prediction of the dependent variable (*Y*), given the independent variables (*X*). Usually, however, there is substantial variation of the observed points around the fitted regression line. Thus, the

deviation of a particular point from the regression line (its predicted value) is called the *residual* value.

In this portion of the analysis, the objective is to develop a model that will best predict the dependent, or outcome, variable using a linear combination of independent variables. The outcome variable (the dependent variable, or the variable to be predicted) is the number of days in detention. That variable was calculated by determining the number of days between the booking date and the release date. The independent variables (also known as the predictor variables) in this model included the following seven variables: the population tier of the county in which the defendant was detained; whether that particular county had an unsecured pretrial release program; the detainee's sex, ethnicity and age at the time of booking; the total number of charges filed against the defendant and the total bond amount to secure his/her release.

The beauty of using multiple regression as a statistical technique is that one can examine the singular and independent effects of every single variable in the model while holding constant the effects of all of the other variables in the analysis. That means, for example, that one can examine the effects of detainee ethnic status while holding constant the effects for every other variable. In this particular analysis, all independent variables were entered into the model in an "all-at-once" mode.

Tables 10-A, 10-B, and 10-C show some rather interesting findings. First of all, each of these three tables indicate that the single, most consistent predictor of the number of detention days in jail is the *total number of charges against the defendant*. This is true regardless of whether one examines the results based upon the twenty percent sample, the ten percent sample, or the five percent sample of data. These results also indicate that the number of days in detention is *not* related to the total set bond amount in any statistically significant fashion. In

other words, the total bond amount is not related to the number of days spent in detention. This finding is also consistent across all of the models based upon the different sample sizes. Second, the ethnic status of the defendant is not related to the number of days spent in detention in any statistically significant fashion. Whether one is white, or non-white appears to have nothing to do with the time spent in detention. Third, in two of the models (the 20 percent sample and the 10 percent sample), defendant's sex is shown to be related to the number of days spent in detention. To that extent, females were associated with spending fewer days in jail than their male counterparts.

Table 10-A
Table of Standardized and Unstandardized Regression Coefficients
Predictors of Total Detention Days in Jail
(20 Percent Sample)

$R = .257$, $R^2 = .066$; $R^2_{ADJ.} = .062$; S.E. $_{Est} = 40.613$; $F = 18.238$; $df^1 = 7$; $df^2 = 1810$; $p < .001$

	UNSTANDARDIZED COEFFICIENTS						
VARIABLE NAME	**b**	**STANDARD ERROR**	***B***	**T VALUE**	**SIG.**	**TOLERANCE**	**VIF**
(constant)	21.656	6.364		3.403	.001		
POPULATION TIER	-.937	1.406	-.021	-.667	.505	.529	1.891
UNSECURED PRETRIAL	-7.002	3.166	-.069	-2.212	.027	.533	1.875
SEX	-5.596	2.191	-.059	-2.564	.011	.979	1.021
AGE	.040	.079	.012	.511	.610	.963	1.039
TOTAL CHARGES	6.795	.659	.237	10.307	.001	.978	1.023
TOTAL BOND AMOUNT	-6.528E-5	.000	-.016	-.707	.479	.978	1.022
ETHNICITY	.293	2.060	.003	.142	.887	.941	1.083

Table 10-B
Table of Standardized and Unstandardized Regression Coefficients
Predictors of Total Detention Days in Jail
(10 Percent Sample)

$R = .292$, $R^2 = .085$; $R^2_{ADJ.} = .078$; S.E. $_{Est} = 41.87$; $F = 11.787$; $df^1 = 7$; $df^2 = 888$; $p < .001$

	UNSTANDARDIZED COEFFICIENTS						
VARIABLE NAME	**b**	**STANDARD ERROR**	***B***	**T VALUE**	**SIG.**	**TOLERANCE**	**VIF**
(constant)	29.531	9.535		3.097	.002	---	---
POPULATION TIER	-3.361	2.054	-.072	-1.637	.102	.525	1.904
UNSECURED PRETRIAL	-2.028	4.690	-.019	-.432	.666	.522	1.915
SEX	-6.384	3.243	-.064	-1.969	.049	.972	1.029
AGE	-.024	.116	-.007	-.205	.837	.968	1.033
TOTAL CHARGES	7.798	.959	.263	8.129	.000	.986	1.014
TOTAL BOND AMOUNT	.000	.000	.034	1.062	.288	.983	1.017
ETHNICITY	-1.527	2.999	-.017	-.509	.611	.951	1.051

Table 10-C
Table of Standardized and Unstandardized Regression Coefficients
Predictors of Total Detention Days in Jail
(5 Percent Sample)

$R = .355$, $R^2 = .126$; $R^2_{ADJ.} = .112$; S.E. $_{Est} = 43.492$; $F = 8.899$; $df^1 = 7$; $df^2 = 431$; $p < .001$

	UNSTANDARDIZED COEFFICIENTS						
VARIABLE NAME	**b**	**STANDARD ERROR**	***B***	**T VALUE**	**SIG.**	**TOLERANCE**	**VIF**
(constant)	7.464	13.755	.	.543	.588		
POPULATION TIER	.878	3.180	.017	.276	.783	.538	1.859
UNSECURED PRETRIAL	-4.635	7.524	-.037	-.616	.538	.549	1.822
SEX	-7.931	4.715	-.076	-.1.682	.093	.981	1.019
AGE	.177	.177	.048	1.031	.303	.948	1.055
TOTAL CHARGES	9.314	1.231	.348	7.659	.000	.958	1.044
TOTAL BOND AMOUNT	.000	.000	-.072	-1.572	.117	.962	1.040
ETHNICITY	1.785	4.355	.019	.410	.682	.939	1.065

DISCUSSION AND CONCLUSIONS

This study was originally undertaken to determine if there was any truth to the contention that defendants were languishing away in jail because they could not afford the cost of a surety bond in order to get released on a secured pretrial release status. In addition, this research attempted to determine whether there were any statistically significant predictors associated with the number of days in detention, and if so, whether these predictors were legal- or extra-legal criteria.

There were several conclusions that were derived from the analysis of over 9,400 cases across the state of Florida during a one-year time period from October 1, 2017 through September 30, 2018. These data were compiled from twenty-nine counties in the state whose jails had online search and query engines wherein it could be determined how long the defendant was in detention and the mechanism by which the defendants were released or continued in some type of confinement status.

Release mechanisms included unsecured pretrial release or secured pretrial release in the form of some type of financial surety. Confinement statuses included defendants being placed on some type of hold, remaining in detention for a prolonged period of time after the amount of bond had been set by the judge or the magistrate, and being sentenced to confinement subsequent to adjudication and conviction.

Of these 9,400 cases, just over forty percent of the sample had been released on some type of surety bonding mechanism in conjunction with their secured pretrial release. Another fifteen percent (14.5%) were released on some type of *unsecured* pretrial release mechanism. Another seventeen percent (16.8%) were on some type of "hold" status while just under twenty-five percent (23.3%) were in jail because they were serving a sentence following the adjudication

of their case. Just under two percent of detainees were in detention because they could not meet the financial requirements associated with a obtaining a surety bond.

Overall, two-thirds of the overall spent from between one and seven days in jail, while 56 percent of the sample spent between one and three days in pretrial confinement. The data also showed that defendants in unsecured pretrial release status spent statistically significant longer time in pretrial detention than did defendants released on a surety bond. This finding was observed across the entire sample of detainees, along with those snapshot samples that contained 20 percent, 10 percent, and 5 percent samples of the larger overall sample.

In addition, there were some significant variations by counties regarding the time differences spent in detention when comparing those defendants in unsecured pretrial release status with those were released on some type of secured pretrial release mechanism. These included Flagler, Hernando, Hillsborough, Indian River, Lake, Lee, Nassau, Palm Beach, and Santa Rosa counties.

However, when it comes to the question of defendants languishing away in detention facilities because they cannot afford the cost associated with surety bonding, the data showed that less than two percent of all detainees were in a prolonged state of detention regarding their confinement. Ironically, of the six different counties that had a disproportionate share of defendants with prolonged stays in detention on a pretrial basis, five of the six counties (Brevard, Manatee, Palm Beach, Pinellas, and Polk) have unsecured pretrial release programs currently in place. Moreover, 108 of the 153 detainees (68.6 percent) who were determined to be in prolonged detention status were *from those counties in the sample with operational unsecured pretrial release programs.* The question becomes this - if these defendants were truly languishing in jail simply and solely because of a lack of financial resources for obtaining a

bond, why weren't they simply accepted by the unsecured pretrial release program for release from pretrial detention? In point of fact, the argument that vast numbers of defendants are locked up in pretrial detention on the basis of a single criterion – because they cannot financially afford a surety bond – is grossly overstated and has no systematic evidence to substantiate the claim.

Within the dataset itself, three variables – sentencing status, case status outcome, and days in detention - actually had moderately strong zero-order correlation coefficients among themselves. However, when the correlation between two of the three variables was adjusted due to the presence of a third variable, the strength of the original correlation coefficient was substantially reduced.

In terms of the multiple regression model utilized in the analysis, there was one and only one variable in the model that was predictive of the number of days in detention across all of the different 'snapshot' samples: the total number of charges against the detainee. The total bond amount had no predictive value whatsoever when it came to determining the sources of variation in the number of days spent in detention.

Finally, in terms of sheer operating budgets alone, this analysis demonstrated, based upon data supplied by the state of Florida's Office of Program Policy Analysis and Government Accountability (OPPAGA), that the budgets associated with operating twenty-nine unsecured pretrial release programs on a statewide basis for three successive calendar years (2015, 2016, and 2017) exceed 95 million dollars, or roughly 31.7 million dollars *per year*. This corresponds to just under $87,000 *per day*. These costs associated with the operation of unsecured pretrial release programs are borne by taxpayers in Florida, whether at the state, county, or municipal levels. Fundamentally, taxpayers have to pay for these programs someway, somehow when it

comes to long-term viability and sustainability. Alternatively, the cost to taxpayers to implement a *secured* pretrial release program in any county across the state? Nothing. Not one single penny.

Overall, the results that were obtained as a result of this research are certainly not groundbreaking. In fact, these results are 'remarkably unremarkable' to the extent that they have confirmed that which we already knew, especially when it comes to the issue of the 'prolonged languishing in detention' hypothesis allegedly being experienced by large numbers of defendants. The data from this research simply do not support that contention.

In an ideal sense, it would have been preferable to have data from all Florida counties, and not just those with online search engines that may be routinely used by the general public. A widespread study from across the state from all of the counties in Florida using a more expansive dataset with additional variables would go an even further distance in resolving this public policy question within the realm of the criminal justice arena.

But as the old adage quips, "Both God – and the devil – are in the details."

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