

PRETRIAL SUPERVISION'S PREDICTION FOR PROBATION

A THESIS IN
Criminal Justice and Criminology

Presented to the Faculty of the University
of Missouri-Kansas City in partial fulfillment of
the requirements for the degree

MASTER OF SCIENCE

by
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Kansas City, Missouri
2016

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ABSTRACT

Pretrial interventions are being investigated nationally to determine what is most beneficial for both the Courts and defendants to ensure public safety and court appearance. This study is one of the first to examine the impact of pretrial interventions (jail and community supervision) and post-conviction community supervision outcome. It was found that pretrial supervision and jail time can be predictors for probation outcome when controlling for demographics and criminal risk. Additionally, surveys were provided to defendants to show the perceived areas in their lives that pretrial incarceration has had the most impact. The findings support the literature in that pretrial incarceration should be limited as it can have detrimental effects on not only the outcome of the court case but the outcome of probation. Additionally, the findings support pretrial supervision to be an effective learning tool for success on post-conviction community supervision.

APPROVAL PAGE

The faculty listed below, appointed by the Dean of the College of Arts and Sciences have examined a thesis titled “Pretrial Supervision’s Prediction for Probation,” presented by Madeline Jane Warren, candidate for the Master of Science degree, and certify in their opinion it is worthier of acceptance.

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CHAPTER 1

INTRODUCTION

In the last decade, there has been an exponential rise in scholarly interest in pretrial justice processing, as evidenced by the recent increase of research conducted in this area (Bechtel, Holsinger, Lowenkamp, & Warren, under review). Additionally, due to recent media attention, the public is starting to question pretrial incarceration and is starting to ask when enough is enough. After arrest, the pretrial process is the entry way to the criminal justice system, impacting all of the individuals who are arrested or cited by law enforcement. Moreover, arrest does not equal guilt in the United States; every individual is considered innocent until proven guilty and has a right for a jury to determine his or her fate regarding the allegations made during the arrest. Thus, due to this presumed innocence, researchers and policy makers have had increased interest to study the impacts of pretrial interventions.

The pretrial population has received a lot of attention by researchers for many reasons: 1. The population is not convicted of a crime and under the law punishment (perhaps most notably confinement/incarceration) should not be administered until guilt is determined; 2. Those who determine who should stay in jail and who should be released should make this decision rationally with good reasons and/or evidence that support the decisions; 3. Individuals deemed ‘low risk’¹ should not experience an invasive criminal justice system intervention because doing so could result in the individual becoming more antisocial (i.e., more high risk); 4. The need to properly allocate the tax payers’ money to increase public safety; 5. There is a lack of past

¹ See below for a more in-depth discussion of actuarial risk and systemic responses to varying degrees of risk.

evaluation for the pretrial process, resulting in researchers and policy makers wanting to bridge the gap in research.

The issue of pretrial detention is a multi-faceted and potentially difficult one to cover fully with any single discussion. On the one hand, current law does allow someone who is accused of a crime to be detained until (and even during) their trial. On the other hand, the law also states that this sort of pretrial detention should be used sparingly and only under certain circumstances. As a result, policy makers and more acutely, practitioners such as judges, sheriffs, and jail workers have to engage in a balancing act where rights of the innocent are protected while maintaining the safety of the community. While determining who, among the pretrial population, is a “good risk” and a “poor risk” for potential future criminal behavior and/or flight is a valid and important consideration for all parties involved (including the accused), how best to execute the many procedures and decision-making points that go into it remain up for debate and in many cases controversial. Regardless, approximately 60 percent of the jail population is awaiting trial (Minton, 2013).

Nearly 60 percent of convicted offenders are placed on community supervision at sentencing (Latessa & Smith, 2011). This use of community supervision means the majority of individuals convicted within the courts will be in the community upon release, and largely ‘free’ with some degree of restriction². In fact, pretrial incarceration may have an impact on probation success due to the loss of ties to the community while being detained pretrial. Many have challenged the logic of pretrial incarceration, presumably because the accused are deemed “dangerous” or “potentially dangerous,” only to release them out to the community on probation

² Most convicted offenders who receive some form of community supervision have a set of conditions known as the “standard conditions of supervision” which can include any number of restrictions such as a reporting schedule, curfews, notification requirements, and treatment services among many other possibilities.

once their case is resolved upon conviction. Prior to the development of pretrial risk assessments, an individual's release from jail depended on his or her charge, as well as the judge's "feeling" about the defendant. Researchers began to question this practice and were able to determine statistically significant risk factors to assess a defendant's risk to determine pretrial release.

With the creation of actuarial risk assessments and related research inquiry, researchers have established that time spent incarcerated pretrial can be detrimental to the pretrial population who are not deemed high risk (Lowenkamp, VanNostrand, & Holsinger, 2013b). Put simply pretrial incarceration causes defendants to lose connections to society. Even short amounts of time in jail can have disruptive effects on stabilizing factors like employment, finances, family support, residence, mental health, just to name a few (Lowenkamp et al., 2013b). Additionally, those who are categorized as low risk per an actuarial risk assessment are subjected to these disrupting effects and are likewise exposed to higher risk individuals in custody (Andrews & Bonta, 2006; Andrews, Bonta, & Hoge, 1990; Lowenkamp et al., 2013b). Many have argued that even unwittingly increasing the overall risk level of the population under correctional control is bad policy which leads to net widening, population increase, and heightened correctional costs, as well as the damage that is done to the lives of individuals involved in the system as well as those that surround the individual. Increasing the use of pretrial release while expanding services in the community that are available to the pretrial population may avoid the disruption caused by pretrial detention, and contribute to individuals' success.

In light of the many issues raised above, the next logical set of questions appears to center on who should be kept incarcerated while awaiting their trial and who can be safely released into the community with appropriate interventions put in place. Despite the many

important issues regarding innocence until guilt is established, and the potential negative impact of even short stays in jail, the fact remains that some portion of the pretrial population can be considered “high risk” – high risk for flight, and/or high risk for new criminal activity during the pretrial period. As noted above however, the methods whereby this “risk decision” is made remain in development and in some instances controversial. The public and policy makers are naturally concerned about how these risk-based issues are resolved. Historically, there has always been an irrational concern for public safety that is most likely a consequence of the media’s focus on and portrayal of heinous crimes. Evidence based practices are being utilized at increasing rates in order to move away from judges’ and other practitioners’ “feelings” about a certain defendant. For the pretrial population, one of the largest areas of research revolves around actuarial tools to determine the (group-based statistical) risk of someone who may not appear for court and/or who may be involved in new criminal activity during the pretrial period. This is a potentially more objective way to look at the risk of individuals than previous practices, and may have a more accurate statistical prediction of the individuals who are under consideration for pretrial release. Nothing can predict human behavior with 100 percent accuracy, but there are promising results in several new and emerging risk prediction models (Andrews, Bonta, & Wormith, 2006; Latessa & Lovins, 2010; Summers & Willis, 2010). Furthermore, by employing an objective standardized risk tool, removes at least some subjectivity in the pretrial release decision process. This creates a (potentially more) fair process regarding the pretrial status of an individual and can help reduce biases in the criminal justice system such as structural racism.

The Risk-Need-Responsivity Model has been introduced in order to create the framework whereby, at least initially, the overall statistical risk of recidivism a person poses can be

determined, and in turn practitioner decision making can be based upon that determination. The Risk-Need-Responsivity Model examines the individual defendant's risk, fills in the criminogenic (or crime-producing) needs that are contributing to the risk of criminal behavior, and treats each defendant based at least in part accordingly (Andrews & Bonta, 2006; Andrews, Bonta, & Hoge, 1990). By following the Risk-Need-Responsivity Model, pretrial services can match interventions to defendants' needs based on their risk of non-compliance with their release orders. Additionally, those who are deemed low risk should not have many (if any) pretrial interventions (especially incarceration).

Historically, public safety is considered a paramount concern for the tax payers. The tax paying public are responsible for financially supporting the criminal justice system and in turn the criminal justice system ensures public safety. There is a limited budget for the criminal justice system and policy makers need to allocate the funding to maximize results that contribute to (and certainly do not erode) public safety. Practitioners who administer pretrial interventions, like most publicly funded domains, have been asked to do as much as they can with as few resources as possible. As such it is important to keep in mind that incarceration is the most expensive option (both monetarily and by potentially increasing risk of the inmates). Yet numerous jurisdictions are struggling with a growing jail population and have to arrange for inmates to be relocated to facilities in other jurisdictions that have room. This is not without cost because the jail that relocates inmates has to pay for the space they utilize in other jails (not to mention transportation and other related costs). The price depends on the cost for the receiving jail to house the inmates. When the local jails reach the point of having to "farm out" inmates, the public discourse naturally leads to jail expansion which can include additions to current jails or the building of a new jail. This major decision can cause a huge financial commitment for a

county. Additionally, counties, such as Johnson County, KS, suffer from continuous budget cuts due to decreased state funding. Therefore, there are sacrifices the county's agency suffers as well as the tax payers when discussing jail expansions. However, the thought of a new jail may not be necessary due to new research on actuarial risk assessments and jail alternatives for defendants (Lowenkamp et al., 2013b).

Researchers who study pretrial decision making often examine other interventions that do not cost as much money as detention but may accomplish the goals of insuring defendants appear for court while also promoting public safety. For example, strategies such as court notification programs, electronic monitoring, pretrial supervision, and house arrest may show promise as procedures that increase the likelihood that a defendant will appear for court, holding the defendant accountable (which may in turn reduce any likelihood of new criminal activity during the pretrial period) while saving the costs, and pains, of unnecessary incarceration (Bechtel et al., under review). Fiscally, the responsible way to handle tax payer's money is to assess risk and utilize the intervention based on each individual's needs.

Recently tax payers have begun to question the ethics of the criminal justice system and how persons of interest are treated by the police and by other actors in the system. There are multiple cases where the public has questioned the "fair and equal" ideology of the criminal justice system, awakening the public to the biases that exist within the system, in particular systemic racism. Recent criminal justice events have prompted the public to look beyond public safety as the most important part of the criminal justice system. One example of this change in public view regarding pretrial procedures is the death of Sandra Bland. The public was enraged by the idea that Ms. Bland committed suicide in a jail after being incarcerated for several days for a "minor" traffic violation (Schuppe, 2015). Ms. Bland was stopped by law enforcement for

not using her turn signal while changing lanes (Schuppe, 2015). There was a struggle with law enforcement which lead to Ms. Bland's arrest and pretrial incarceration (Schuppe, 2015). There are conflicting stories about the jail knowing Ms. Bland had attempted suicide in her life; regardless evidence appears to support that Ms. Bland committed suicide while in jail (Schuppe, 2015). This case brought additional attention to pretrial interventions and what is appropriate and what is not. Putting the suicide aside in Ms. Bland's case, the public questioned whether jail was the appropriate place an individual should be housed while addressing traffic violations. This extra attention will only increase researcher's quest to learn more about pretrial interventions and to provide new research that may assist practitioners in making responsible policy decisions.

Bland's case, along with others, bring the topic of race to the table in the criminal justice field. Putting aside the hot topics of what is right and wrong in the police and detention agencies, these cases have forced policymakers to examine and discuss racial inequalities within the criminal justice system. The criminal justice system has many racial inequities that researchers have been aware of, but that the public remained blind to until the media motivated discussion of these aforementioned cases. Jails are no different than prisons with their overrepresentation of multiple (non-white) races and/or ethnicities. In order to address these racial and/or ethnic disparities, an ongoing and research-driven examination of the pretrial decision making process is in order.

Despite an increasing amount of research about many topics in the pretrial realm, many areas remain under-researched, and overall there appears to be the need for additional (and more rigorous) studies. In short, more research is needed in the pretrial field to assist policy makers and practitioners with the many decision points throughout the pretrial justice stage. For

example, in order to justify an increase in funds allocated toward the pretrial population (instead of providing all of the community funds to post-convicted supervision), more research is needed to inform said policy makers. This research is the first to make this connection by examining pretrial status and probation outcome. If prosocial behaviors can be encouraged while antisocial behaviors discouraged in the pretrial process, this may create increased success for those who are found guilty and sentenced to probation, which as noted above constitutes the majority of the convicted population.

More research needs to be conducted to examine pretrial supervision, pretrial incarceration, and their relationship with probation outcomes, the most likely disposition upon conviction. The following are the research questions for this study:

RQ1: What is the relationship between pretrial incarceration time and probation outcome?

H1: Those who are granted community release in a timely fashion³ at the pretrial stage will be more successful on post-conviction probationary supervision than those who are not granted community release in a timely fashion at the pretrial stage.

RQ2: What is the relationship between performance on pretrial community supervision and performance on post-conviction probationary supervision?

H2: Those who are successful on pretrial community supervision are more likely to be successful on post-conviction probationary supervision⁴ than those who are not successful on pretrial community supervision⁵.

³ A timely fashion for pretrial release is typically defined as less than three days.

⁴ Probation success in this study is when a probationer has no probation revocation on file.

⁵ Pretrial community supervision success is defined as a defendant that does not fail to appear for court nor obtain a motion to revoke his or her bond.

RQ3: What is the relationship between receiving community supervision at the pretrial stage (or not) and probation success?

H3: Those who are successful on community pretrial supervision are more likely to be successful on post-conviction probationary supervision than those who are not supervised during the pretrial stage.

CHAPTER 2

LITERATURE REVIEW

The pretrial population is relatively new to criminological study. Despite some recent empirical additions, the pretrial literature is dominated by legal justifications and case law. This law and policy-based literature, while informative, does not add much value to the way pretrial services conduct business or how probation may or may not be impacted by an offender's pretrial status. Of the non-legal research, the majority is concentrated on the effectiveness of pretrial programming or risk assessment. There is very limited research that assesses the impacts of pretrial processing beyond the pretrial release. In fact, Bechtel et al. (under review) found just over 800 articles covering the pretrial field (since 1909), with less than 20 percent of these articles having any quantitative data. Furthermore, the majority of the studies with quantitative data were found to be non-rigorous regarding the research methods utilized (Bechtel et al., under review). Conversely, there is extensive research about the impact of (general) incarceration on inmates. Therefore, the literature that is being explored below is separated into four distinct categories: Effects of Pretrial Detention, Pretrial Release and Pretrial Services, Probation Violations and Recidivism, and Effects of Long Term Incarceration. Due to the lack of literature regarding how pretrial long term incarceration affects a defendant, literature was used for long term effects of post-sentence incarceration anticipating that the negative impacts of incarceration will be seen at the pretrial phase, in some capacity, or to some degree. The magnitude of disruption is naturally greater for post-sentence incarceration, but to some extent, it is expected for pretrial incarceration to have similar effects on the inmate.

Effects of Pretrial Detention

Over the last decade pretrial detention has increasingly become the focus of researchers due to what may be the importance of this entry point into the criminal justice system. Ever since Rankin (1964) demonstrated variation across outcomes for defendants depending on their pretrial placement (detention, or not) pretrial detention has been demonstrated to have a negative impact on the defendant's case outcome and life, often causing difficulty with reintegration. Additionally, many studies have found there to be racial discrepancy within the population detained pretrial. Pretrial detention has reverberating effects down the line for all defendants and it impacts the entire criminal justice proceedings for the individuals who are incarcerated while awaiting their trial. This inequality can directly impact the entire criminal justice proceedings for these individuals. There are many different theories on what causes racial discrepancy, but a common theory involves access to monetary resources that can be applied toward money bail. In other words, the more serious the accused crime, the higher the bail for the individual. This theory does follow that the higher amounts of bail are for "serious" defendants; however, there are repercussions for using the accused crime for the determining factor of bail. By using the crime as a determining factor for bail, the link to success while in the community (no new criminal activity and appearing to court) is not being assessed. Further, even low bail amounts may keep people who otherwise "should" have been released, in jail. Finally, there are people who have the resources to pay bail no matter what it is set at, regardless of their actuarial risk to the community. One solution to the question of "risk" and the use of money bail may be the adoption of actuarial risk assessments in order to inform decisions regarding who should be released from custody and who should not.

Rankin (1964) discusses the impacts of pretrial detention on the disposition of the case as well as the impact of status with the community. Rankin (1964) accounted for five variables that affected a pretrial incarcerated defendant's court case status (compared to those who are not incarcerated pretrial): type of defense counsel, criminal history, bail amount, employment permanence, and family restoration. Those who are incarcerated while awaiting trial (compared to those who post a bail amount and are released) had a higher rate of convictions and sentences to prison in lieu of community supervision (Rankin, 1964). Unsurprisingly, those who had higher bond amounts while awaiting trial and/or were appointed attorneys (i.e., public defenders) had a higher rate of conviction and sentences to prison (Rankin, 1964). Those who possessed higher family integration and employment stability had lower rates of conviction and prison sentences (Rankin, 1964).

Rankin (1964) informed policy makers that the pretrial status (including detention, or not) can have a detrimental impact on the outcome of an individual's case, and that most of the pretrial status observed was directly linked to the individual's socioeconomic status. More importantly, this study also provides evidence that the jails can be in essence a "debtor's prison" allowing those with resources and other social capital to avoid pretrial incarceration. Additionally, Rankin (1964) showed not only that pretrial incarceration impacts a defendant's outcome, but that links to the community can also improve a defendant's outcome. Therefore, pretrial incarceration has a larger impact on a defendant's case due to the effect of breaking down the community ties for the defendant (in this study this is shown via the low employment stability and familial integration variables).

Some decades later, Schlesinger (2005) studied the likelihood of Black and Hispanic individuals being incarcerated while awaiting their trial. The study investigated the extent to

which judges may make bail decisions based on information that goes beyond the alleged crime and criminal history, to include physical attributes that may be tied to the social capital and status of the individual (Schlesinger, 2005). It was found that Black and Hispanic individuals are more likely to be held in custody on larger money bond amounts compared to their White counterparts (Schlesinger, 2005). Additionally, Black individuals had higher rates of bail denial (Schlesinger, 2005). Historically and currently, the majority of those who live below the poverty line are Black and Hispanic populations (Kaiser Family Foundation, 2013). Therefore, even with hypothetically equal bail amounts for all races and ethnicities, Blacks and Hispanics would still represent a larger portion of pretrial incarceration populations in light of lesser access to financial resources. In reality, the larger monetary requirements for Blacks and Hispanics for pretrial release creates an even larger inequality for these individuals when examining the likelihood of pretrial release, and the reverberating impacts of pretrial detention.

Schlesinger (2007) continued the research to examine the total impact of racial disparities in criminal case outcomes. Schlesinger (2007) examined drug cases in 65 highly-populated counties across the nation and controlled for charge severity and prior criminal history. It was found that again Black individuals were more likely to be denied bail (Schlesinger, 2007). It was also found that the Hispanic population was most likely to remain incarcerated pretrial followed in likelihood by the Black population (Schlesinger, 2007). These findings were consistent with Schlesinger's 2005 study, showing more evidence that there are racial disparities in pretrial incarceration due to the effects of bail decisions (i.e., granting bail, and/or the amount of bail). These decisions in turn can later impact the sentencing of these disadvantaged individuals.

Bail decisions have reverberating impacts down the line, which in turn affect the likelihood that non-whites are incarcerated, which in turn creates and/or perpetuates structural

racism. Additional research has further investigated the claim that Black and Hispanic populations are more likely to be sentenced to jail or prison and received longer sentences than their White counterparts (Doerner & Demuth, 2010; Schlesinger, 2007; Wooldredge, 2012). As discussed earlier, this may not seem surprising due to non-white individuals being more likely to be held in custody while awaiting trial. Racial disparity in criminal justice processing is common across many studies covering many different topics; however, most studies have different views on where the cause lies. Schlesinger (2005 & 2007) relies heavily on bail decisions (based on social status) being the reason for this outcome. Doerner and Demuth (2012) incorporate age and gender with race to find certain groups that are more likely to be sentenced to incarceration and the length of the sentence. Wooldredge (2012) finds there are disparities in different phases of case processing which correlate with these outcomes, but he also states that nonfinancial bonds and monetary bond discrepancies have a large role in these outcomes.

Lowenkamp et al. (2013b) also supported the conclusion that those defendants who are detained the entire time prior to case outcome are “4.44 times more likely to be sentenced to jail and 3.32 times more likely to be sentenced to prison than defendants who are released at some point pending trial” (p. 10). Additionally, it was found the sentences are between 2.36-2.78 times longer for those who were not released from custody while awaiting trial (Lowenkamp et al., 2013b). However, lower risk defendants who were incarcerated the entire pretrial process had much higher probabilities for incarceration and longer sentences than their low risk counterparts who were not incarcerated while awaiting trial (Lowenkamp et al., 2013b). The results of this study may demonstrate that low risk individuals – meaning those that pose a statistically low likelihood of failing to appear for their court dates and/or committing new criminal behavior during the pretrial period – do indeed remain incarcerated pretrial in some

instances. In turn, this incarceration may actually increase the likelihood of incarceration post-conviction, and the length of time sentenced to incarceration upon conviction. This in turn influences their risk level and violates the aforementioned risk principle. Further, the costs of incarceration – both pretrial and post-conviction – are high, and could have been saved.

There is a limited number of studies that examine the impact of pretrial incarceration and the likelihood a defendant will be arrested for new cases (i.e., post-disposition for the instant case). Lowenkamp et al. (2013b) examined the relationship between pretrial detention and outcomes, including the likelihood of future criminal activity after the initial court case has been resolved. This study (the first of its kind) found that those who are incarcerated for more than a day while awaiting trial are more likely to commit new criminal activity than those who were incarcerated for one day or less (Lowenkamp et al., 2013b). Furthermore, it was found that as actuarially-derived (or determined) risk increases for offenders, the chances of failure to appear and/or new criminal activity increase (Lowenkamp et al., 2013b). Thus, those who have a higher risk (as measured via an empirically-based actuarial assessment) are found to be less successful with pretrial outcomes than those who are lower risk. However, low risk defendants have a strong positive relationship between time spent incarcerated while awaiting trial and failure to appear rates (Lowenkamp et al., 2013b). Finally, this study also found that the longer an individual is detained during the pretrial process, the more likely he or she will have new criminal activity 12 and 24 months post disposition (Lowenkamp et al., 2013b).

One common finding across many empirical pretrial studies is the extent to which monetary bonds have an impact on those who stay in custody while awaiting their trial, which can impact other outcomes (such as sentencing and new criminal activity after the case has been satisfied). However, it is not founded that those who are released and posted a monetary bond

are more likely to appear to court and not have new criminal activity compared to those who do not post a monetary bond – such as a release on recognizance, conditional release, or unsecured bond (Cohen & Reaves, 2007). In fact, Cohen & Reaves (2007) compared pretrial outcomes by monetary release and found those who posted a surety bond, a full cash bond, or an own recognizance bond were not different when looking at pretrial outcomes. Since the bond amount does not impact pretrial success, the new theory to base release on the defendant’s actuarial risk of pretrial failure has begun to reform current pretrial practices. By moving away from monetary bonds and basing the release decision on actuarial risk, the problem of jails housing defendant’s due to lack of resources may be resolved.

Schnake (2014) discusses the history of bail and how there should be two different kinds of bail. One bail should be deemed “release” and should be for the majority of the pretrial population (Schnake, 2014). This population should not have a monetary bond because these individuals should be released from jail (Schnake, 2014). The other bail type should be deemed as “no bail” and should be for the riskiest of the pretrial population (Schnake, 2014). These individuals should not have a bail amount (or an amount that is not likely attainable) because they are found to be a danger to society or are likely to disappear from court proceedings (Schnake, 2014).

Pretrial Release and Pretrial Services

Pretrial release and pretrial services of some kind (such as pretrial supervision and other options) are the alternatives to pretrial incarceration. Incarceration rates in the United States (pretrial and post-conviction) have been the driving forces to create pretrial services. It is imperative to understand the state of the Nation’s incarcerated population. Due to the high rates of incarceration in the United States and the associated cost of incarceration, policy makers have

continuously sought other options when sentencing offenders – options that ideally offer some degree of public safety. In the United States in 2012 there were 1,353,198 prisoners held in state prisons and 217,815 prisoners in federal prisons, totaling 1,571,013 convicted prisoners (Carson, 2013, p. 3). The total incarcerated population (jail and prison) in the United States was 2,228,400 inmates (Glaze & Herberman, 2013, p. 3). This population includes those who are incarcerated pretrial, presentence, and post-conviction as well as those who are awaiting probation and parole violations. In 2010, the average cost per inmate – incorporating the costs for inmates throughout the nation – was calculated as \$28,323 per year (Kyckelhahn, 2014, p. 4). Therefore, the estimated cost for inmates in 2012 (assuming the cost per inmate remains consistent from 2010) is approximately \$63.1 billion per year. By comparison, probation and other forms of community sanctions/control are significantly cheaper. Buddress (1997) goes so far as to state that Federal Probation is one-tenth the cost of incarceration. In 2012, one adult out of 50 was on probation or parole while one adult out of 108 was incarcerated (Glaze & Herberman, 2013). Statistically, the odds of being sentenced to probation rather than prison are higher.

In light of the cost of incarceration (including of course the cost of jail for people who are in the pretrial phase), policymakers started to investigate the pretrial population in jails. In 2012, sixty percent of inmates incarcerated in jails were being held pretrial (Minton, 2013). The Pretrial Services Act of 1982 attempted to encourage policy makers to decrease the pretrial population in jails but also to investigate and implement strategies that may reduce new law violations from those who are awaiting trial in the community. Despite this legislation, the pretrial incarceration numbers have increased since the early 1990s (Byrne & Stowell, 2007). In some jurisdictions, pretrial risk assessments have been created to aid in the identification of low

risk offenders who can safely remain in the community while awaiting trial, while also identifying dangerous or high(er)-risk defendants that may remain in custody until case resolution. Some jurisdictions, such as Johnson County, KS, utilize a risk assessment to determine the defendant's overall risk level, as well as their bond and level of pretrial supervision if the defendant bonds out of custody (i.e. House Arrest, Pretrial Supervision, or no supervision).

Perhaps unsurprisingly, incarceration has the best appearance rates and community safety rates (public safety) for suspects/defendants. However, this high rate of desired outcomes (100 percent appearance rate, 0 percent new criminal activity rate) come with a substantial cost. Incarceration causes the defendant to lose ties within the community and decreases the likelihood of success upon release. Pretrial risk assessments have been introduced to aid in the prediction of the probability of success for an offender in the community while awaiting trial in an effort to use pretrial supervision efficiently and effectively. In order to more accurately predict these outcomes, actuarial risk assessments introduce an evidence based practice to the pretrial field that allows a more accurate prediction of outcome than a judge's perceived opinion on a defendant (Aegisdottir, White, Spengler et al., 2006; Andrews, Bonta, & Wormith, 2006; Bechtel, Lowenkamp, & Holsinger, 2011; Grove, Zald, Lebow, Snitz, & Nelson, 2000; Latessa & Lovins, 2010; Meehl, 1954).

The goals of pretrial risk assessment are twofold: to produce consistency in release decisions within and/or across jurisdictions and to release as many offenders as possible without affecting court appearance rates or public safety (Summers & Willis, 2010). In order to compose a pretrial risk assessment that functions properly, researchers first must have access to reliable, theoretically sound, and valid data elements; in other words, items that are collected in a

standardized fashion for every person who is booked into (or perhaps nearly booked into) a local jail. Further, analysts will have to test which variables are significantly correlated with the most common pretrial outcomes of interest: failure to appear and new criminal activity. For example, Virginia was one of the first states that implemented a pretrial risk assessment statewide. Virginia's Pretrial Risk Assessment Instrument validation incorporates eight factors that displayed reliability in predicting risk for offenders regarding their appearance and safety rates (Summers & Willis, 2010). Bechtel et al. (2011), found the following factors to have the highest prediction rates for a defendants' success while awaiting trial: "age, community supervision violation, failure to appear, injury to victim, [pretrial risk] instrument, jail incarcerations, prior conviction, prior felony, prior misdemeanors, prior violence, property or drug and weapon" (p. 80). For failure to appear, the following factors had the highest prediction rates for a defendant's success while awaiting trial: "age, failure to appear, juvenile arrests, prior conviction, prior jail, property or drugs, and victim injury" (Bechtel et al., 2011, p. 81). Johnson County, Kansas has a pretrial assessment tool, which was created and validated by Dr. Alex Holsinger from the University of Missouri, Kansas City. The items used by the tool are: state of residence, employment, age at first arrest, current charge severity, drug abuse history, drugs related with the current charge, and mental health status. While each item on the risk assessment tool possesses some predictive validity, the strength of the relationship of each individual item varied.

Pretrial supervision is used to decrease defendants' rate of failure to appear for court and to increase the safety of the community while a defendant is released from custody and awaiting trial. More specifically, pretrial supervision is intended to provide interventions to defendants that may mitigate their risky behaviors while going through court proceedings. From the taxpayers' perspective, an argument could be made that pretrial supervision is a waste of

resources; however, the cost of pretrial supervision is significantly cheaper than pretrial incarceration. Additionally, by pretrial supervision targeting risky behaviors early on in the criminal justice chain, the goal is to increase the likelihood that a defendant will ultimately never return to the court system again (Byrne & Stowell, 2007). Whenever possible, pretrial supervision should set up a seamless transition to probation for an offender who will ultimately participate in both types of community supervision. Since pretrial supervision has similar rules and roles as probation, by virtue of being a part of pretrial supervision, offenders will already have established reasonable expectations for what they will experience while on probation. For Federal cases, the number of defendants experiencing some form of pretrial services has increased over time from less than 10,000 defendants in 1982 to over 30,000 defendants in 2007 (Byrne & Stowell, 2007, p. 31). So in sum, pretrial services are a rapidly expanding part of the criminal justice system, and policy makers should consider planning accordingly.

In terms of effectiveness, Lowenkamp and VanNostrand (2013) compared the impact of pretrial supervision on defendants who remained in the community while awaiting trial. The results showed that those who were supervised had lower failure to appear rates and if the defendant was supervised for 180 or more days, they were less likely to have new criminal activity (Lowenkamp & VanNostrand, 2013). This indicates that the longer one is supervised on pretrial supervision (i.e. successfully maintaining their supervision status), the more likely it is that he or she will be successful during pretrial release.

The literature currently lacks examinations of pretrial status and its effects on probation outcomes. This can be viewed as a limitation to the current study as well, since there is not a lot of background information that can guide the proposed research design. Regardless, the current study will attempt to fill this gap in the research with new available information. Incarceration,

including pretrial detention, generally causes rifts in employment, housing, finances, and family ties. For example, if a defendant were in custody for two to three days, the likelihood of the defendant still having employment upon his or her release would decrease due to his or her absence from work. Another example is if a defendant were to miss a big event in his or her child's life while in pretrial custody. This would have an impact on the relationship of the offender and child (and other people that are connected to that child). Therefore, studying the impacts of pretrial status (whether this includes incarceration, supervision, and/or or pretrial outcome) may inform how agencies can ensure offenders will be more successful on probation, since the same 'stabilizing factors' (employment, financial status, positive social support, residential stability, mental health support, substance use support and others) that may be affected by pretrial incarceration are the same factors that may be related to success on probationary supervision.

Probation Violations and Recidivism

The goal of probation is to assist offenders⁶ in decreasing and/or mitigating the risk factors that are correlated with the likelihood of continued criminal and antisocial activity. Probation is often assigned to an offender in lieu of prison but often there is a back-up sentence in case probation is not successful. For example, judges often suspend either the imposition or the execution of a sentence to incarceration, offering probation instead, with the explicit and implied expectation that freedom on probation will only be maintained through compliance with all conditions and/or progress across any number of indicators. At the current time, the profession of community supervision (including but not limited to probation) is undergoing a

⁶ There is a switch from defendants – or those who have not been convicted of a crime – to offenders – those who have been convicted of a crime and are carrying out their sentence.

major shift. Specifically, probation is currently evolving from being a ‘surveillance program’ with the primary objective of insuring that the offender abides by their standard conditions of supervision, to a ‘change agent program’ that actively and meaningfully utilizes evidence based practices to increase successful outcomes (Bonta, et al., 2008; Lowenkamp, Latessa, & Smith, 2006). When a client is not meeting the expectations of probation (that are driven by the probation order set by the court), a probation revocation can be filed with the court so the judge can address the issues. The judge can either reinstate the probation with other stipulations or send the offender to do his or her original sentence to incarceration. A probation violation consists of either new criminal activity or technical violations (where a probationer does not follow his or her court orders). In 1986, 74 percent of probationers were successful at completing probation compared to the 60 percent in 1990 (Taxman & Cherkos, 1995). Taxman & Cherkos (1995) theorize this is due to the increase in probation conditions the court has set on the offender. One example of the standard conditions of supervision is a requirement that the offender engage in some form of rehabilitative treatment or therapy (whether it be theft prevention, substance abuse, batter’s intervention, sex offender, etc.). Additionally, due to longer lengths of probation supervision, there is more time to observe an individual in violation of his or her supervision (Benedict & Huff-Corzine, 1997; Morgan, 1994; Roundtree, Edwards, & Parker, 1984). Therefore, longer periods of probations are more likely to have higher failure rates than shorter probation periods.

Of those who have their probation revoked, the reason is more likely that the individual obtained one or more technical violations (i.e., failure to comply with the standard conditions assigned by the court such as failing drug testing, not attending treatment, not attending probation appointments, etc.) rather than committing a new crime (Bork, 1995; Sims & Jones,

1997). Bork (1995) observed three different categories for probation violations: technical, minor, and major violations. It was found that between 1990 and 1994, for those who were on probation, there were eight times the amount of technical violations compared to minor violations and three times the amount of technical violations compared to major violations (Bork, 1995). Additionally, the research examined those who were on parole and they had similar patterns, but higher percentages of failure compared to probation (Borke, 1995). Technical violations are the main cause for offenders to fail community supervision.

In addition to “regular” probationary supervision, many jurisdictions in recent decades have developed what is often referred to as “intensive supervision.” This intensive supervision allows probation officers to spend more time with those who are deemed to be higher risk. The goal of intensive supervision is to ensure success among these high risk individuals and to lessen the likelihood of them engaging in risky behaviors in the future (after supervision is completed). However, with this “intensive supervision” approach, more surveillance occurs (Petersilia & Turner, 1990). Additionally, with an “intensive supervision,” individuals will often be assigned to longer periods of supervision. It has been found that the longer one is supervised by probation (intensive or otherwise), the more likely the individual will receive one or more technical violations which in turn increases the likelihood that they will be unsuccessfully terminated from supervision (Benedict & Huff-Corzine, 1997; Morgan, 1994; & Roundtree et al., 1984). Intuitively the longer someone is being supervised, and/or the more intensive their supervision is, and/or the more rigorous the standard conditions of supervision (i.e., requirements set by the court), the more chances they are going to have to be found in violation of their supervision.

There are certain groups of people who are less likely to be successful on probation than others. Those who are not white are more likely to obtain a probation revocation compared to

their white counterparts (Clarke, Lin, & Wallace, 1988; Grey, Fields, & Maxwell, 2001; Irish, 1989; Whitehead, 1991). In addition, Grey et al. (2001) found that non-white probationers were more likely to have their probation revoked due to a technical violation of their standard conditions, as opposed to the commission of a new crime. This may represent systemic racial bias within the criminal justice field that increases the likelihood that non-white offenders remain involved in the system longer which in turn reduces social capital in the moderate and long term.

Many research studies have found that those who are employed in some fashion are more successful on probation than those who are unemployed (Grey et al., 2001; Irish, 1989; Landis et al., 1969; Morgan, 1994; Sims & Jones, 1997). This finding is important because those who were employed prior to their initial arrest and held in custody while awaiting trial are more than likely not to have employment when they are released to probation. This roadblock caused by pretrial incarceration can be a hindrance for probation success. This information also raises a question as to whether the criminal justice system relies heavily on financial means for success (such as treatment, fines, fees, urinalyses, etc.). If someone is not employed, it is most likely they will not be able to pay their fees, fines, restitution, and costs associated with drug testing and treatment. Therefore, some may come to the conclusion that the criminal justice system is only concerned about money instead of helping probationers avoid reoffending.

Effects of Long Term Incarceration

Overall, the research regarding long term incarceration indicates that incarceration decreases and strains existing ties to the community. Specifically, long-term incarceration negatively affects employment, housing, and familial ties. While those who are confined pretrial do not stay incarcerated as long as convicted offenders, the effects of time in jail pretrial can still hinder defendants' progress when reunited with the community as jail or prison incarceration can

hinder convicted offenders. In return, pretrial incarceration may create barriers to offenders' success if they are ultimately assigned to probation.

When an inmate is incarcerated (post-conviction), obtaining employment once released is difficult. Time out of the workforce due to incarceration causes gaps in work history and gaps in skill development (Apel & Sweeten, 2010, p. 452). According to Western (2002), stability in employment creates an environment for earnings to increase; those who are incarcerated do not have an opportunity for stable employment and as such their earnings stagnate. This furthers the argument that gaps in skills and work history hinder the inmate from obtaining employment, especially employment with stable earnings. Furthermore, the reputation of being an ex-convict may cause the employer (or potential employer) to view the individual as a bad prospect (Apel & Sweeten, 2010, 451). This illustrates that there is bias in the workforce against those who have been incarcerated which in turn decreases the likelihood of their moderate and long-term success. While the period of incarceration may be shorter for someone who is in custody awaiting trial, these deleterious effects may still occur. For example, the charges the defendant had placed against them may be revealed as the result of a standard background check which may reduce the likelihood they will be hired. Likewise, the defendant may be placed in a position where they have to explain a gap or disruption in work and job-related skill development as a result of pretrial incarceration. In addition, it is possible that even short-term pretrial incarceration may cause an individual to lose his or her job, or suffer some sort of work-related consequence such as suspension upon release, even if he or she manages to remain officially employed.

Not only does incarceration have an impact on employment, but in particular, the impact of incarceration on employment may be even more acutely felt by African American suspects

and offenders (Holzer, 2004; Westin & Pettit, 2000). Another variable of impact for employment for this group is lack of education. In fact, Westin & Pettit (2000) found that young, African American males who were incarcerated had lower rates education. Due to the lack of education among this group, employment rates were low and there is a great earnings inequality of those who were employed (Westin & Pettit, 2000). While some post-dispositional correctional institutions may offer programming for inmates such as vocational or educational certifications, those who are pretrial and ultimately placed on probation are not likely to be in custody long enough to participate in jail programming, for example.

Obtaining and maintaining stable and healthy/acceptable housing is another issue that confronts prison inmates as well as defendants who experience pretrial incarceration. An ex-offender will often live with his or her family, a friend, or significant other, or become homeless (Roman & Travis, 2004). Residency restrictions may also hinder the offender's efforts to live in certain areas. For example, some areas do not allow sex offenders to live near places where children frequent. Furthermore, when an offender is released into a community, the stigma of being incarcerated causes community ties to be weakened (Clear, Rose, & Ryder, 2001). This alienation causes the offender to lack prosocial ties, and pushes antisocial offenders together, creating a bonding experience (leading to the possibility of more crime). This idea combines the social learning theory, where one learns from delinquent friends (Akers, 1990; Bandura, 1977; Sutherland & Cressey, 1974), and labeling theory where the antisocial are labeled as such and the labels become an identity (Braithwaite, 1989).

When an offender spends time incarcerated, bonds with family tend to decrease. This can be due to a lack of communication, visibility, and social contribution. Incarceration causes irreversible damage to the family, as time cannot be replaced (Gentry 2002-2003). Additionally,

Arditti (2012) states, “children with an incarcerated parent have a higher risk of school failure, poor self-esteem, internalizing problems, antisocial and delinquent behavior, and subsequent incarceration themselves” (p. 181). Thus, incarceration of a parent has a detrimental effect on children, increasing stress on the incarcerated offender. Incarceration can also negatively impact committed romantic relationships as those who have been incarcerated have lower marriage rates than those who have not been incarcerated (Western & Lopoo, 2004). This indicates less social support and bonds for the offender when released. Lengthier prison stays will have a more damaging effect on the family, causing the offender to have less support when in the community.

Research that examines the impact of incarceration on inmates has a heavy emphasis on the post-conviction offender population. The proposed research examines the validity of these findings for those who are incarcerated while awaiting trial. Again, the pretrial population typically has significantly shorter stays in custody when compared to post-conviction incarceration. It is expected the effects will not be as strong as those who are separated from society for long amounts of time, however, the potential effects of pretrial incarceration will be assessed for their correlation with pretrial outcomes as well as probationary outcomes.

CHAPTER 3

METHODS

After reviewing the literature, it is apparent that there is a gap in research linking pretrial status and other related pretrial factors, and probation outcome. The current study was designed to investigate questions regarding what relationships exist between pretrial status and probation outcome and to what extent they exist (in terms of direction and strength).

This study specifically examines the relationship between pretrial incarceration time and probation outcome. Because Lowenkamp, VanNostrand, and Holsinger (2013a) found that there are correlations that potentially show detrimental impacts of pretrial incarceration and a defendant's court case outcome, the same relationship may be expected between pretrial incarceration and probation outcome. Those who are in custody awaiting trial may lose their connections to the community and have a more difficult time completing probation successfully. This research also examines whether there is a relationship between *performance* on pretrial community supervision and *performance* on post-conviction probationary supervision. It is hypothesized that those who successfully complete pretrial community supervision will continue their success on probation due to similar court orders expected for both stints of supervision. It is also hypothesized that those who struggle with pretrial community supervision and obtain a revocation (for example) will also struggle with post-sentence probation supervision. Finally, this study also examines the relationship between those who receive community supervision at the pretrial stage (compared to those who do not – both pretrial detainees and defendants who bond out of custody with no supervision) and their success with probation. It is hypothesized that those who are supervised on pretrial community supervision will complete probation successfully (regardless of a pretrial revocation), at a higher rate than those who were not

supervised during the pretrial period. This would be due to individuals who were supervised during pretrial perhaps becoming more familiar with community supervision and related procedures and expectations.

Participants

The sample utilized in this study comes from Johnson County, Kansas, a wealthy suburban area of Kansas City, Missouri (United States Census Bureau, 2015). Johnson County comprises the entire Kansas 10th Judicial District. Compared to the other areas in Kansas, Johnson County is known for being more progressive in dealing with their offender population. In addition, Johnson County has a Justice Information Management System (hereafter JIMS), which is accessible to varying degrees by all of the Criminal Justice Agencies throughout the County. These agencies include: the Sheriff's Office, District and Municipal Courts, Prosecutors, the Public Defender's Office, Court Services Probation, Community Corrections Probation, the Adult Residential Center, Juvenile Probation, Juvenile Detention, and municipal law enforcement agencies. While information from all of these agencies is kept in the JIMS database, not everyone from each agency has access to every part of the system. As a result, Johnson County has created and continued a legacy of standardized and comprehensive data collection that has the potential to facilitate many different justice-related research projects.

The sample consists of all Johnson County offenders who were granted probation, whose probation case closed in 2013. The year of 2013 was examined to allow for complete data set. When the data was pulled, 2014 data was not finalized for data analysis. This population consisted of a total of 1,975 probation cases that were eligible for this study. Table 1 presents

the demographics of the sample. The sample consisted of mostly White non-Hispanic⁷ males. The probation sample is close to equal regarding those who are supervised by the community pretrial supervision (49.7%) compared to those who are not supervised by the community pretrial supervision (50.3%). Those who were not granted community pretrial supervision could fall into this category for a number of reasons: being in custody while awaiting trial, being low risk, and/or having the judge deem community pretrial supervision unnecessary.

Table 1
The Population

Measure	N	Mean
Gender		
Male	1454	73.6%
Female	521	26.4%
Race		
White	1607	81.4%
Non-White	368	18.6%
Ethnicity		
Non-Hispanic	1422	93.2%
Hispanic	104	6.8%
Community Pretrial Supervision	981	49.7%

Procedures

The data used for the current study came primarily from two sources. First, the JIMS system was utilized to identify the aforementioned sample (all cases of probation that were closed in calendar year 2013). Once the sample was identified, several data elements were exported including demographics, criminal history, and case-specific information pertaining to

⁷ Ethnicity is not collected consistently and/or measured appropriately. This inconsistency caused for this variable to not be a focus of the study.

the pretrial phase of case processing, and probationary factors including outcomes such as technical violations and revocations. Second the current study utilizes data that were gathered via a survey that is routinely administered to all individuals who report for bond supervision (survey administration occurs during their initial meeting with the bond supervision officer). JIMS staff was able to search every probation case closed in 2013 that was supervised by either Court Services or Community Corrections – the District’s two probation agencies⁸. The following information for each case was requested: date of birth; race; ethnicity; days in jail while pretrial; LSIR⁹ total score; LSIR score for each of the 54 questions asked; total Pretrial Assessment score – an objective measure of the overall risk of failure to appear (FTA) and new criminal activity (NCA); each question answer for the Pretrial Assessment; the Pretrial Risk Level; if the individual was on community pretrial supervision; community pretrial supervision outcome; and probation outcome.

After this information was obtained for the entire sample, additional data were pulled manually from each probationer’s file. During the initial phases of the project it was determined that the JIMS search engine was not entirely accurate in determining the community pretrial and probation outcomes. As a result, the principal investigator conducted manual electronic searches of judge’s notes for clarification of each case’s outcome to ensure the sample was exhaustive. For example, judges’ notes might include indication of whether the individual failed to appear in

⁸ There are two probation agencies within most jurisdictions: Court Services (standard probation) and Community Corrections (Intensive Supervision Probation). In Johnson County, KS, the LSI-R total score determines the supervising agency for all felony probation cases. Higher risk individuals are supervised by Community Corrections. Those with lower risk scores are supervised by Court Services. Additionally, all misdemeanor cases are supervised by Court Services. In order to appropriately supervise individuals who are on misdemeanor probation, there is a small team of officers who supervise high risk misdemeanor offenders intensively due to their high risk to reoffend.

⁹ The Level of Services Inventory – Revised (LSI-R) is a risk assessment that indicates the likelihood of an individual to recidivate. The higher the score, the more likely one is to recidivate (Andrews & Bonta, 1995).

court while they were awaiting trial. This is an important clarification because there were some who had a failure to appear while they were involved in a revocation process with probation. When each file was manually examined, data were recorded if an individual had a failure to comply with their bond conditions and/or a failure to comply with their probation conditions. Then, if individuals had a failure to comply (for either stint of supervision, if applicable), it was determined whether the individual had a technical violation filed by their supervising officer and/or if they had a new criminal charge.

Once data were collected a series of data-cleaning and data-management procedures were conducted in order to prepare the data for analyses. One limitation of this study stems from the potential for a tremendous amount of time an individual might be on probation. For example, there were individuals who finished probation in 2013 who had been placed on probation in 1995. Although this represents a potentially outlying example, there were a number of cases that were over five years old (meaning they spent more than five years on probationary supervision, and were closed out or terminated from supervision in 2013). As a result, the older cases suffered from the potential for missing data, and some data were in different places than the newer cases. The cases that had missing data were inspected to determine where (or if) the missing elements could be completed. Some missing data were recovered via this process, but there were still cases that had missing data. This missing data is a potential limitation to the study, representing a threat to internal validity.

As noted above, Pretrial Supervision (through Johnson County, Kansas District Court) administers surveys to Defendants when they are assigned Pretrial Supervision. The surveys were created in order to gather more information on the pretrial supervisee's perceptions of the impact of pretrial incarceration and whether posting a monetary bond impacted the defendants'

lives. The surveys began in October 2014. The agency determined that this information could be potentially useful for making policy recommendations pertaining to pretrial case processing to the County Commission.

When a defendant is ordered to pretrial supervision, he or she has to contact the Pretrial Supervision Office. The defendant will then sign up for a Pretrial Supervision Orientation. Most English-speaking clients will obtain an orientation appointment. There are a small amount of exceptions that may cause an individual to not attend orientation (e.g., work schedule conflicts). However, to combat this barrier, Sunday night orientations were available for defendants with long work hours during the week. When the defendant appears for his or her orientation appointment, he or she will be asked to partake in the survey. Dr. Alex Holsinger designed this survey in conjunction with the (now retired) Criminal Justice Coordinator, Rise Haneberg, and a consultant from the Boston-based Criminal Justice Institute, Kristin Bechtel. Dr. Holsinger also designed the pretrial risk assessment tool currently used by the Johnson County District Court. The survey has a combination of short answer, Likert scale, and yes or no questions. The survey is four pages in length (including the cover page; see Appendix A).

Once the client has completed the survey, staff will verify the Johnson County Court Case Number associated with the defendant and the bond amount assigned for the defendant. Once this information is compiled, Johnson County has a third party compile the information into the Statistical Package for the Social Sciences (SPSS) software. These secondary data were drawn from a different population of individuals, and therefore cannot speak directly to what is observed with the 2013 probation cases. However, the surveys are instructive in interpreting the results from the analyses of the 2013 closed probation cases, particularly in terms of understanding *why* pretrial status may or may not impact probation outcomes. In light of the two

distinct sources of data, however, any connections between information gleaned from the surveys and potential impact on probationary outcome is merely speculative.

The main limitation of the surveys is that the population is not inclusive of those who are granted probation, meaning those who participate in the survey may or may not be convicted of their crime and may or may not be sentenced to probation. The surveys do not include defendants who bonded out and are not supervised by Pretrial Supervision. Those who bond out are presumed to be the lowest risk clients; that they do not have a presence in the survey data is another potential limitation. Also, the surveys do not include the clients who are incarcerated for the duration of the pretrial process (again, the surveys are only administered to those who are released from custody pretrial, and who are ordered to report to Pretrial Supervision). Those who are in custody during the entire pretrial process may have been impacted the most, but are not included in the survey administration. Another limitation to the population of this study is the survey does not capture clients who do not speak English. While this is a small population, there could be different difficulties experienced through pretrial incarceration for these offenders. The survey data, while distinct from the aforementioned secondary data from JIMS, are designed to answer specific questions regarding the impact of pretrial custody (that may or may not have impacts on probation, if granted, though these issues will remain unresolved due to the varying sources of data).

Measures

This research will examine the pretrial status and its impact on probation outcomes. There are two classifications of pretrial status: community pretrial supervision and pretrial incarceration. There are also several factors, which may need to be controlled for in this study in order to more rigorously test and examine the relationships between the independent

covariates of primary interest, and the outcome variables. Further descriptions of the variables are needed.

Dependent Variables. The primary dependent variable in this study is the probationer's success while on probation. As stated earlier, this outcome variable was measured using the judge's notes in the JIMS data system. There are two possible outcomes for the dependent variable that is of interest in this study, making the variable a dichotomous variable (either there is a revocation of post-disposition probationary supervision on file or there is not). A probation revocation requires an offender to appear before a judge due to noncompliance with probation conditions. This causes increased costs to the Court, prosecutor, security, among other financial obligations for another court hearing – costs that are subsidized by the taxpaying public. This study will only verify whether there is a probation revocation on file. This study will not examine instances where there is a revocation that is followed immediately by a probation reinstatement, as any kind of revocation will be considered a “probation failure.” This means those who had a probation revocation on file were considered “failed” cases (regardless of the ultimate outcome and/or systemic response to the revocation) and those who did not have a probation revocation on file were considered “successful” cases. One additional limitation of the study is that it includes all filed probation revocations. For example, it is possible that someone could “fail” standard probation through Court Services, have his or her probation revoked through the court, have his or her probation be reinstated, and then complete intensive supervision through Community Corrections successfully. This person would be counted as a failure in the current research due to an official revocation being filed through the court. However, when there is a probation revocation on file, there are more costs associated to the public and it indicates there are issues severe enough with the probation to cause the judge to be

brought back into the process. Additionally, there is a possibility of the probationer being sent to prison in lieu of another try at probation. As noted above, this study will not distinguish between those who received a revocation and were reinstated, and those who were revoked and sent to Kansas Department of Corrections to serve a suspended sentence. If a revocation was filed with the court, the case was considered a “failure” for the purposes of the current analyses, regardless of the systemic response to that revocation.

The general probation revocation (whether there was a probation revocation or not) is the main dependent variable. However, there is more information that can be explored to understand probation revocations further. There are two types of reasons why a probationer will obtain a probation revocation: technical violations and new criminal activity violations (or, potentially, both). Therefore, in this study, the general probation revocations were examined in terms of whether they consisted of technical violations or new criminal activity. If the probation revocation consisted of both, it was marked as new criminal activity as that is typically the main reason for the probation revocation, and arguably the more serious instance.

The dependent variable for the current study does not take into account internal sanctions (or reprimands for mistreatment that the probation officer administers without going to the Court for a revocation). For example, an offender might be struggling with drug use while on probation and the probation officer mandates the offender to attend substance abuse treatment. These circumstances would result in an offender who may have received a technical violation that was responded to by their supervising officer, but who did not in turn receive a revocation. This study will not determine whether an offender received internal (meaning non-revocation) sanctions. While an offender may be struggling with certain probation requirements, it is the probation officer’s duty to provide resources to correct the offender’s behavior. Thus, if

probation was able to complete its purpose by being an effective change agent for the offender, then the case will successfully terminate. Therefore, “sanctions” (official or otherwise) that feel short of revocation were not counted as “failure” for probation. Instead, if there is no revocation, the probationer is considered a success. If the offender does not follow through with a sanction on probation, then a revocation will follow, making the case count as a probation failure.

Independent Variables. The primary independent variable of interest in this study is the type of pretrial supervision intervention (if any) the defendant was subjected to. Pretrial community supervision is when a defendant is managed, while permitted in the public, in order to ensure the defendant is cooperating with his or her pretrial conditions set by the Court, while awaiting trial. Typically, these conditions include: prohibiting consumption of drugs or alcohol; obedience to the law; and mandatory appearance for appointments (both court and with their assigned bond supervision officer) and drug testing when directed. Pretrial incarceration involves the defendant being managed in jail while awaiting trial. The common goal for pretrial supervision across settings (community or institutional) is to lower the likelihood that the defendant does not commit crime and that he or she appears at all court hearings. Other variables were needed in order to investigate fully the relationship between pretrial status, and probationary outcome. Additional independent variables (e.g., see legal and demographic variables enumerated below) will be utilized for the purpose of statistical control in multivariate modeling. The coding of these figures is depicted in Table 2.

Legal Variables:

1. **Pretrial Revocation:** This variable was measured through observation of the Court Records, using the JIMS database. Pretrial Revocation is when the Pretrial Supervision Officer (PSO) files a Motion to Revoke Defendant’s Bond, due to the defendant not

following the pretrial conditions set by the judge. When this happens, the defendant is placed into custody and will have to post another (usually higher) bond in order to be released from custody. Sometimes the defendant will have his or her bond revoked in court due to a Failure to Appear (FTA) or due to noncompliance issues being addressed in the Court Room. As a result, not only will the motions be observed, but also the Judge's notes. This variable will be dichotomous because the individual either had a pretrial revocation or did not. However, two more (dichotomous) variables stemmed from the Pretrial Revocation variable. This variable was coded into the reason why there was a pretrial revocation: if the revocation was due to technical violations (either it was or was not) or if the revocation was due to new criminal activity (either it was or was not).

2. Pretrial Failure to Appear: This variable was measured through the observation of the judge's notes. As stated earlier, Failure to Appear was only recorded when it occurred in the pretrial stage, not in the post-conviction stage.
3. Pretrial Risk Assessment: Originally, this variable was to be accessed via the JIMS database in an automated fashion (e.g., via a data export). However, it was found that the majority of cases did not have a Pretrial Risk Assessment due to the timing of the cases (meaning the period of time during which they were experiencing pretrial case processing preceded the use of the Pretrial Risk Assessment). The Pretrial Risk Assessment was utilized in cases that started the court proceedings in 2012. Due to the need to control for pretrial risk however, an innovative use of post-dispositional data was conducted. The vast majority of cases involved in the current study did have a Level of Service Inventory – Revised (LSI-R) assessment conducted. Community Supervision agencies in Johnson

County utilize the LSI-R as a comprehensive measure of criminogenic risk and need, in order to classify the offender per their relative risk of reoffending, and, to facilitate case planning. Because the LSI-R was administered post-disposition (and by definition, after the pretrial case processing phase), the decision was made to utilize only the static and historical questions from the LSI-R in order to build a retrospective risk scale. In short, the questions that were utilized for this risk scale were those items that would have been scored the same way whether the case had been at the pretrial stage, or later on. LSI-R questions 1, 2, 3, 5, 6, 7, 10, 15, 16, and 17¹⁰ were used as this makeshift “pretrial risk” scale. The scale revealed an alpha level of .659, indicating a scale of adequate reliability.

4. Pretrial Supervision: This variable measures whether someone was supervised during the pretrial period while in the community.
5. Time in Jail Pretrial: This variable started as a numerical variable where the pretrial custody time was recorded for each individual. This was gathered via the original JIMS data export. The time in pretrial custody was measured in two ways and may be treated as such, depending on the analyses. One coding of pretrial custody time will be dichotomous, indicating either no time (0) in custody, or some time (1) in custody. A second coding will involve a categorical coding scheme where 0 = less than three days in custody, and 1= three days or more in custody.
6. Severity of Charge: All charges were examined for each individual case and it was determined if all charges were misdemeanors or if there was a felony within the charges.

¹⁰ Questions 1, 2, and 3 on the LSI-R pertain to criminal history. Question 5 relates to the age of which someone was first arrested in their lifetime. Questions 6 and 7 review if the individual has been incarcerated upon conviction and if the individual had attempted escaping from a correctional facility. Question 10 discusses if an individual has had a past violent history. Questions 15-17 of the LSI-R instrument assess the education level of the individual and if there were behavior issues while in school (Andrews & Bonta, 2004).

7. Type of Charge: All charges were examined for each individual case. This variable determines if there was a drug offense or there was not, a violent offense or there was not, a sex offense or there was not, and a driving under the influence offense (DUI) or there was not. Each of these variables are mutually exclusive as one person could have multiple offenses in one case. All of the cases were pulled in the original JIMS search; however, the information was inspected individually to score the correct answer in the dichotomous variables.

Demographic Variables:

1. Race: This variable must be examined because justice-system involvement is not necessarily equal across races, and other criminal-justice factors may interact with the defendant’s race or vice versa.
2. Ethnicity: This variable must be examined to further investigate the “White” race variable. Ethnicity in this study refers to the individual identifying as Hispanic or not.
3. Gender: This variable must be examined in order to control for the potential effect of gender on the probation success.
4. Age: this variable was calculated in years from the date of birth given from JIMS.

Table 2
Independent variables – archival data from JIMS

Variable name & coding

Pretrial Revocation

0 = no revocation on file prior to probation; 1 = pretrial revocation on file prior to probation

Pretrial Technical Violation

0 = no technical violation on the pretrial revocation; 1 = technical violation on the pretrial revocation

Pretrial New Criminal Activity

0 = no new criminal activity on the pretrial revocation; 1 = new criminal activity on the pretrial revocation

Pretrial Failure to Appear

0 = no failure to appear on file while pretrial; 1 = failure to appear on file while pretrial

Pretrial Risk Score from the LSI-R

Linear variable; Range = 0 points (lowest risk) to 10 points (highest risk)

Assigned to pretrial supervision, prior to stint on probation

0 = no; 1 = yes

Time in jail pretrial

Linear variable; Range = 0 days to 401 days

Severity of Charge:

0 = Misdemeanor; 1 = Felony

Type of Charge

Categorical variable: Drug Offense; Sex Offense; DUI; Violent Offense.

Race

0 = white; 1 = non-white

Ethnicity

0 = non-Hispanic; 1 = Hispanic

Sex

0 = male; 1 = female

Age

Linear variable; Range = 19.63 years to 87.43 years

Prospective Analyses

Once all of the data were compiled, data analyses began. First, all relationships were tested via appropriate bivariate testing (chi-square for categorical variables, difference-of-means tests where necessary and appropriate, as well as zero-order correlational analyses). Once relationships were established among the variables, appropriate multivariate analyses were conducted (binary logistic regression for categorical dichotomous dependent variables).

Defendant Surveys

In addition to this answering the main research question of this study, Johnson County wanted to investigate the *perceived* outcomes of pretrial incarceration by the defendants. As noted above, the survey data is a completely separate data set than what was utilized from the JIMS data export. The surveys were administered for approximately one year from October 2014 to September 2015. These data were matched to the defendant's demographic information utilizing the JIMS database. This information will be used to help interpret findings regarding the relationship of pretrial and probation outcomes. The results from the survey research will be utilized to provide more insight on the impacts of pretrial status from the defendant's view. Chi-square analyses and independent sample means tests were utilized for the survey data. Additionally, appropriate multivariate analyses were conducted utilizing binary logistic regression as well as linear regression when appropriate.

There are several other limitations of the data that need to be considered. One limitation is that there are many people who have access to updating the JIMS information. This is a limitation because the information can be manipulated easily, resulting in a higher chance of error. Another limitation in the data collection is that manual collection of Judges' notes increases the likelihood of human error. Additionally, the data collected are secondary data, so no extra variables of interest can be added, and existing variables are limited to the form in which they are entered in JIMS. Finally, the probation population for this study is relatively small, due to Johnson County being an affluent area with progressive offender management. Therefore, the information may not be generalizable to the state of Kansas, or other areas in the United States.

CHAPTER 4

RESULTS

The Results section is split into three broad sections based on the Research Questions presented above. The sample that was examined consisted of the probationers in Johnson County, KS who had their case closed in 2013. The majority of probationers completed probation with no revocations (n=1231; 62.30%). Table 3 presents the outcomes for the sample of probationers. Outcomes include general or overall revocation (revocations of supervision that were conducted in response to a technical violations and/or new criminal activity), and revocations disaggregated by whether or not they were issued in response to just a technical violation, or just new criminal activity. While it is possible for a probationer to have a revocation with both technical violations of supervision and new criminal activity, in this study, these instances were placed under new criminal activity revocations as this is usually the more severe revocation type.

Table 3
Probation Outcomes

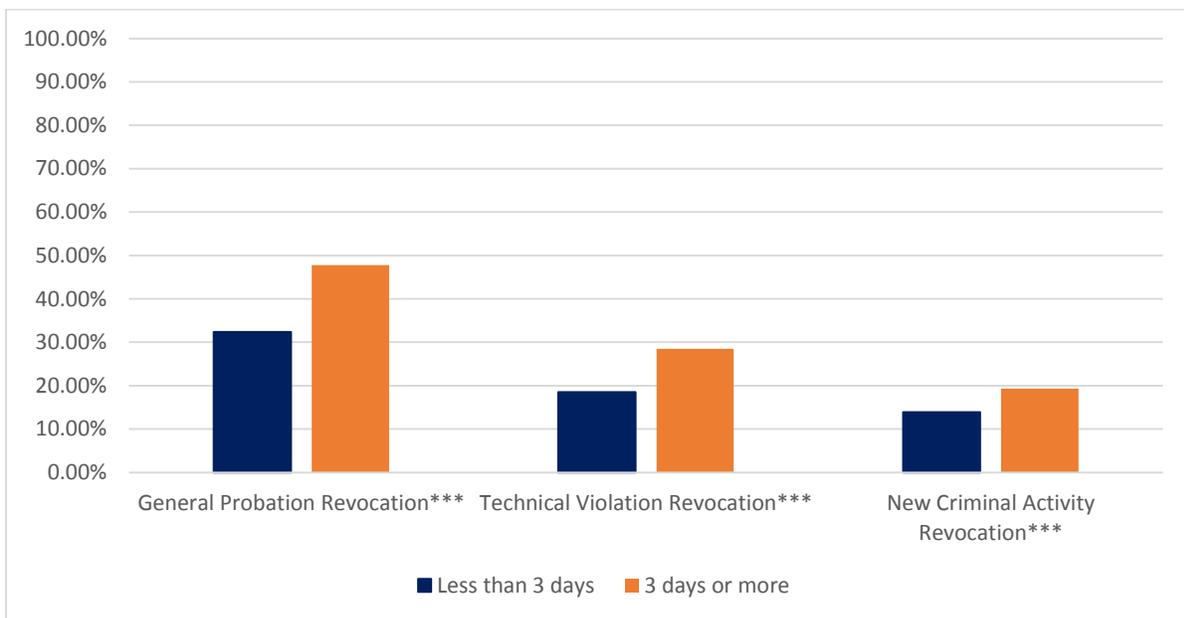
Measure	N	Percentage
General Probation		
Success	1231	62.3%
Revocation	744	37.7%
Technical Violations		
Success	1542	78.1%
Revocation	433	21.9%
New Criminal Activity		
Success	1664	84.3%
Revocation	311	15.7%

RQ 1: Relationship between Pretrial Incarceration Time and Probation Outcome

According to the literature reviewed above, pretrial incarceration may have a statistically significant impact across several domains. Specifically, prior research has investigated and compared the impact of pretrial incarceration that lasts less than three days, to that lasting three or more days (see Lowenkamp et al., 2013b). The same time frame was used in the current analyses when examining the effect of pretrial incarceration on probation outcome. Out of the entire sample under consideration (n=1975), the majority of the probationers spent less than three days in custody pretrial (n=1295, 65.60%) compared to those who were in custody three days or more pretrial (n=680, 34.40%).

Chi-square analyses were used to examine if there was a relationship between the time spent in custody pretrial (categorized as less than three days, vs. three days or more) and probation outcome. Again, these analyses were conducted to examine general probation revocation, which includes revocations for technical violations and/or new criminal activity. A statistically significant relationship ($p < .001$) was found between time spent in custody pretrial, and probation outcome (revocation for any reason – see Figure 1). It was found that those who were in custody pretrial less than 3 days had a 32.40 percent general revocation rate compared to those who were in custody pretrial for 3 days or more, with a 47.80 percent general revocation rate. Those who spent less than 3 days in custody pretrial had an 18.50 percent technical violation only revocation rate compared to the 28.50 percent revocation rate among those who were in custody pretrial for 3 days or more ($p < .001$). Finally, it was found that those who spent less than 3 days in custody pretrial had a 13.90 percent new criminal activity revocation rate

while 19.30 percent of those were in custody pretrial for 3 days or more received a revocation with new criminal activity ($p < .001$). Time spent in pretrial incarceration was significantly related to all three versions of probation outcome, with percentage differentials in the expected direction. According to the bivariate analyses, those who spent three days or more incarcerated pretrial had a higher likelihood of experiencing a revocation of their supervision.



*** $p \leq .001$, ** $p \leq .01$, * $p \leq .05$

Figure 1
Chi-square Analyses Regarding Probation Revocation and Time in Custody Pretrial

The amount of time spent in custody pretrial may be an explanatory factor in variation in the likelihood a revocation will occur, however, the analyses above did not include potentially explanatory control variables. Further analyses were conducted in order to determine the extent to which relationships exist between other independent variables and probation revocation –

variables which will likewise serve as important controls in the multivariate models presented below. A binary logistic regression analysis was used to assess the relationship between several control variables and the outcome of interest (probation revocation). Control variables included age (measured linearly in years), LSIR pretrial risk score (linear – points of risk to the community), the supervising agency (Court Services = 0, Community Corrections = 1), race (White = 0, Black = 1), gender (Male = 0, Female = 1), community pretrial supervision participation (no participation on pretrial community supervision = 0, participation on pretrial community supervision = 1), and general bond revocation¹¹ (did not receive a general bond revocation = 0, received a bond revocation = 1). Days in custody pretrial was found to be a statistically significant ($p < .001$) predictor of probation outcome (for either reason – technical violation and/or new criminal activity). The multivariate analysis (the model) was statistically significant ($p < .001$) and examination of the R^2 and Adjusted R^2 values revealed that the model explained between 15.6 percent and 21.7 percent of the likelihood the dependent variable (probation revocation) will occur. In fact, those who were in custody for three days or more were 66.1 percent more likely to have a probation revocation. When switching the dependent variable from general probation revocations to “technical violation only revocations,” the pretrial jail time was again a statistically significant ($p < .001$) predictor. The multivariate analysis (the model) was statistically significant ($p < .001$) and examination of the R^2 and Adjusted R^2 revealed that the model explained between 8 and 13 percent of the likelihood a revocation due to technical violations of supervision only will occur. Those who were in custody for three days or more were more than twice as likely to have a technical violation revocation while on probation.

¹¹ All of the variables were placed in a Correlation Matrix to assess the potential for multicollinearity. The only variables that had strong and significant relationships were the types of bond revocations and the types of probation revocations. The bond revocations were not related to probation revocations.

When switching the dependent variable from technical violation revocation to new criminal activity revocation, days in custody was not a statistically significant predictor of new criminal activity revocations. The total findings of the exponential odd ratios for each variable observed in the binary regression are presented in Table 2.

Table 4
Binary Regression of Probation Outcome Predicting Exponential Odd Ratios

Variable	General Revocation	Technical Violation Only	New Criminal Activity Only
Age	0.993	1.004	.983*
Gender	1.081	1.019	1.104
Race	1.702**	1.800***	1.105
LSIR Pretrial Risk Score ¹²	1.048	.984	1.094*
Probation Supervising Agency	3.982***	2.461***	3.307***
Community Pretrial Supervision ¹³	0.600***	.608***	.803
Bond Revocation	1.897***	1.513	1.596*
Days in Custody Pretrial	1.660***	2.116***	.906

*p < .05, **p < .01, ***p < .001

¹² The LSIR pretrial risk scale differed significantly ($p < .01$) for all three iterations of outcome (general probation revocation, technical violation probation revocation, and new criminal activity probation revocation) when comparing those who were not revoked, to those who were. The LSI-R pretrial risk scale scores were higher for those who received revocations, in each instance (the expected direction). This provides some statistical evidence of the scale's validity, however, the relationship between LSI-R pretrial risk scale and outcome only remained for the model predicting new criminal activity-related revocation.

¹³ Community Pretrial Supervision was compared to those who are not supervised by Pretrial Supervision (or a sample of those who are incarcerated pretrial and those who are released from custody with no supervision). A separate set of analyses were completed to compare all of those who were released from custody and then broken into two categories of those who were supervised pretrial and those who were not. These set of analyses were not significantly different.

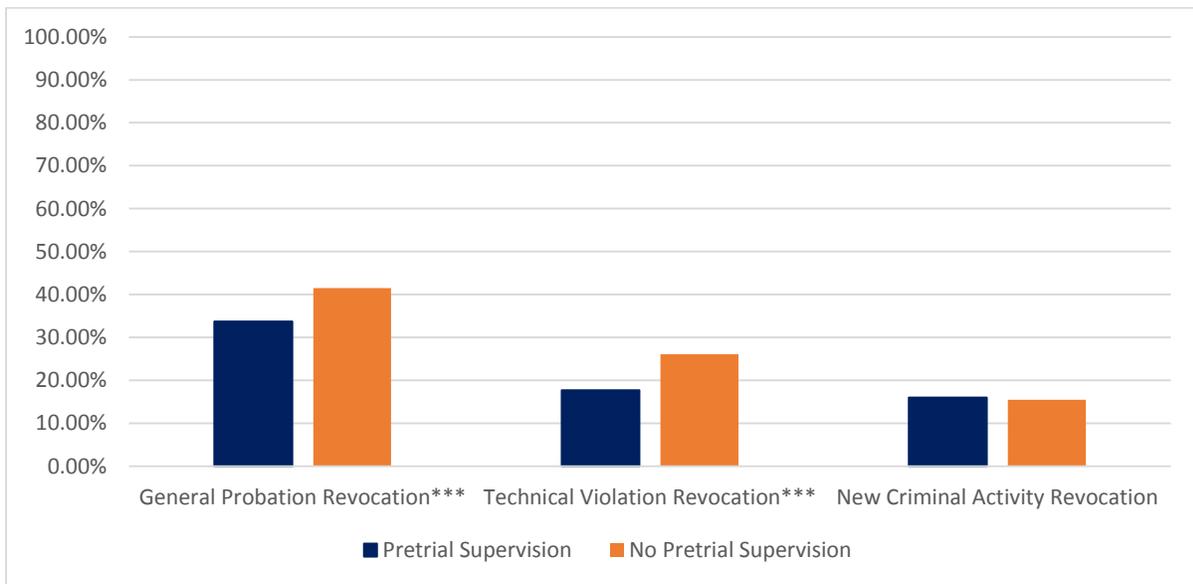
RQ 2: Relationship between Receiving Community Supervision (or not) While Awaiting Trial and Probation Outcome

Community pretrial supervision is a relatively new intervention on the Criminal Justice landscape. There has been little to no literature exploring the relationship between supervision (or not) pretrial, and probation outcome. Of the sample under consideration, there was a close split of those who participated in community pretrial supervision (n=981, 49.70%) and those who did not participate in community pretrial supervision (n=994, 50.30%)¹⁴. It should be noted, those who “participated” on community pretrial supervision do not participate of their own volition. Instead, it is the individual’s judge’s decision. (Policy changes since 2013 allow for the validated Pretrial Risk Assessment to guide this decision.)

Chi-square analyses were completed to determine if there was a relationship between those who participate in pretrial community supervision and probation outcome. There was a statistically significant relationship ($p < .001$) between pretrial community supervision and general probation revocation and technical violation probation outcomes. There was not a statistically significant relationship between pretrial community supervision participation and new criminal activity only probation outcome. These immediately aforementioned results are presented in Figure 2. For general revocation, 33.70 percent of those who were supervised pretrial were revoked, while 41.50 percent of those who were not supervised pretrial were revoked ($p < .001$). Additionally, for technical violation only revocations, 17.70 percent of those

¹⁴ Again, those who did not participate in Community Pretrial Supervision included those who were in custody the entire pretrial process and those who were released from custody without pretrial supervision.

who were supervised pretrial were revoked compared to 26.10 percent of those who were not supervised were revoked ($p < .001$)¹⁵.



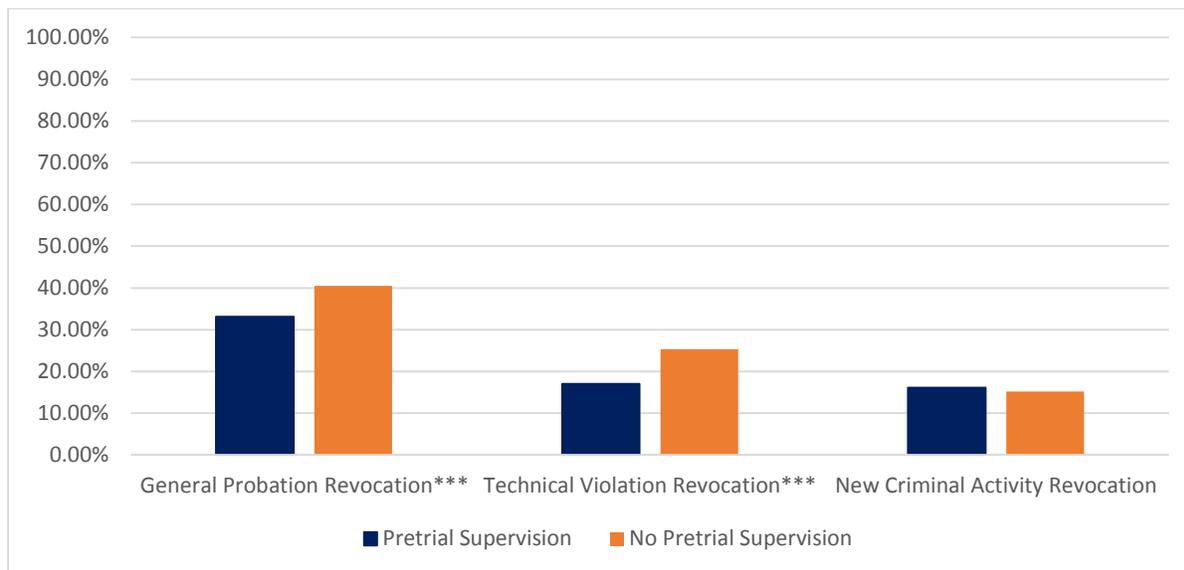
*** $p \leq .001$, ** $p \leq .01$, * $p \leq .05$

Figure 2
Chi-Square Analyses on Community Pretrial Supervision and Probation Outcome

To compare groups that are more alike, the chi-square analyses in Figure 2 were recalculated comparing everyone who was released from custody at some point while awaiting trial. Therefore, all of the individuals who were in the community were broken down into either they were assigned pretrial supervision or they were unsupervised. This eliminated any individuals who were in custody their entire pretrial process. For general probation revocation, 33.10 percent of those who were supervised in the community while awaiting trial were revoked,

¹⁵ These analyses are conducted utilizing the community pretrial supervision variable. Meaning those who did not receive community pretrial supervision may have been in custody or were in the community.

while 40.50 percent of those who were not supervised while in the community pretrial were revoked ($p < .001$). Additionally, for technical violation only revocations, 17 percent of those who were supervised pretrial were revoked compared to 25.30 percent of those who were not supervised while in the community awaiting trial. New criminal activity revocations were analyzed and they were not found to show a significant difference between those who were supervised compared to those who were not supervised in the community while awaiting trial and new criminal activity revocations. This information is depicted in Figure 3. These analyses were completed to show there was very little difference in numbers regarding if those who were in custody were included in the analyses of those who were not supervised by pretrial supervision. From this point on, the study will only examine those who were supervised by pretrial supervision in the community and those who were not (including those who were in custody). The reason for using this variable was driven by the hypothesis that those who are on pretrial supervision are “trained” better to be successful on probation. Therefore, those who did not receive pretrial supervision (whether in jail or in the community) should be considered the comparison group.



***p≤.001, **p≤.01, *p≤.05

Figure 3
Chi-Square Analyses on Community Pretrial Supervision and Probation Outcome (with no defendants who spent their entire pretrial period in custody)

Multivariate Analysis for General Probation Revocation. In order to more fully explore the relationships between the community pretrial supervision and general probation outcome and technical violation outcomes, binary logistic regression analyses were utilized. These analyses are also presented in Table 2. Multivariate analysis showed that the model was statistically significant ($p < .001$) and examination of the R^2 and Adjusted R^2 revealed that the model explains 15.60 to 21.70 percent of the variation in the likelihood a probation revocation will occur. Race was a statistically significant ($p < .01$) predictor of probation outcome (revocation). Those who are black are 70.20 percent more likely to have a probation revocation. It was found those who were supervised in the community pretrial supervision were less likely to have a probation revocation. When using the inverse of the exponential ratio odds, it was found

that there was almost a 67 percent reduction in the likelihood of probation revocation (general) if the offender participated in the community pretrial supervision program. Additionally, it was found that the predicted general probation revocation rate among those who participate on community pretrial supervision was 12.57 percent (not displayed). The supervising probation agency was also a significant predictor of probation revocation (general). Those who were supervised by the Intensive Supervision Probation office were almost four times as likely to receive a probation revocation.

Multivariate analysis for probation revocation—technical violations only.

Multivariate analysis showed that the model was statistically significant ($p < .001$) and examination of the R^2 and Adjusted R^2 revealed that the model explains 8 to 13 percent of the variation in the likelihood a technical violation revocation would occur. It was found that race was a significant predictor for probation technical violations as those who are black are 80 percent more likely to receive a revocation of probation for a technical violation. Those who participate in the community pretrial supervision program were less likely to have a probation technical violation. When using the inverse of the exponential ratio odds, it was found that there was almost a 65 percent reduction in the likelihood of a probation technical violation if the individual participates in community pretrial supervision. Those who participated in community pretrial supervision had a predicted probation revocation rate of 7.78 percent (not displayed). Probation supervising agency was a predictor of probation revocations for technical violation as those who are supervised by the intensive supervision probation office are 2.46 times more likely to receive a revocation of probation for technical violation. Finally, those who received a bond revocation while in the pretrial stage of case processing were 51.30 percent more likely to receive a revocation of probation for technical violation.

Multivariate analysis for probation revocation—new criminal activity only. This multivariate model was statistically significant ($p < .001$) and examination of the R^2 and Adjusted R^2 revealed that the model explains 6.40 to 11.30 percent of the variation in the likelihood a new criminal activity-based probation revocation will occur. Age was found to be a predictor of probation revocation for new criminal activity with those who are younger being less likely to receive a new criminal activity probation revocation (with a statistical reduction in likelihood of 27.16%). The supervising agency (post-disposition probation) was a predictor of new criminal activity. Those who were supervised more intensely were 3.3 times more likely to have a probation revocation based on new criminal activity. Similarly, the likelihood of a new criminal activity probation revocation increased with each point on the LSI pretrial risk scale (e.g., the likelihood of a probation revocation appears to increase 9.4% over base, for each point increase in the LSI-R composite). Finally, those who received a bond revocation were almost 60 percent more likely to receive a probation revocation due to new criminal activity.

RQ 3: Relationship between Performance on Pretrial Community Supervision and Performance on Post-Conviction Probationary Supervision

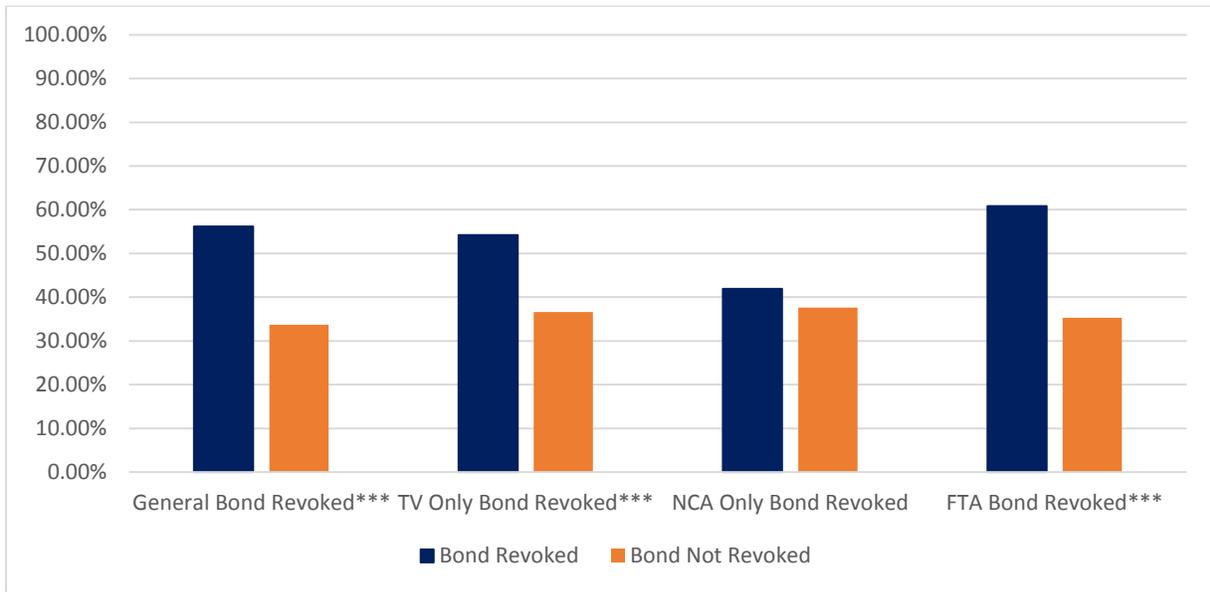
The final analyses conducted for this study examine if there was a relationship between pretrial community supervision performance and probation outcome. Frequencies pertaining to variables related to pretrial supervision performance are presented in Table 4, below. The analyses were conducted on the full sample, as those who are in the community and not supervised by pretrial supervision can still have a bond revocation. It is less likely for the individuals who are in the community and are not on pretrial supervision to have a revocation. This is due to these individuals not being monitored as closely as those who are on pretrial supervision. However, the prosecutor will ask for a bond revocation for technical violations,

new criminal activity, and failure to appear for those who are not being supervised by pretrial supervision. Like the post-disposition probation revocation, the pretrial community supervision also has categories of revocations. If there was a new criminal activity revocation, then it was deemed the most important even if there are other listed violations. This means that if someone were to receive a revocation with both new criminal activity and technical violations, the revocation was considered as new criminal activity since that is typically regarded as the more serious violation. If there was only a technical violation listed as the reason for pretrial supervision revocation, then the case would be considered as a revocation due only to technical violation of the standard conditions of their pretrial release supervision. If there was a violation for failure to appear on record with another pretrial violation (technical violation and/or new criminal activity), then the other violation took precedence over the failure to appear revocation.

Table 4
Pretrial Community Supervision Outcomes

Measure	N	Percentage
General Pretrial Supervision		
Success	1628	82.4%
Revocation	347	17.6%
Technical Violations		
Success	1857	94%
Revocation	118	6%
New Criminal Activity		
Success	1932	97.8%
Revocation	43	2.2%
Failure to Appear		
Success	1789	90.6%
Revocation	186	9.4%

Chi-square analyses were utilized to explore if there was a relationship between pretrial community supervision outcome and probation outcome. The first sample explored was the general probation outcome (technical violations with new criminal activity). There are statistically significant relationships ($p < .001$) between general probation revocations and general bond revocation (56.20% of those who had a general bond revocation had a general probation revocation compared to 33.70% of those who did not have a general bond revocation), bond technical violation revocation (54.20% of those who had a bond TV revocation had a general probation revocation compared to 36.60% of those who did not have a bond TV revocation), and bond failure to appear revocation (60.80% of those who had a failure to appear revocation had a general probation revocation, compared to 35.30% of those who did not have a failure to appear revocation). Those who were revoked in these capacities had more general probation revocations than those who did not have these types of bond revocations. Bond new criminal activity revocation does not relate to general probation revocation. These relationships can be viewed in Figure 4.

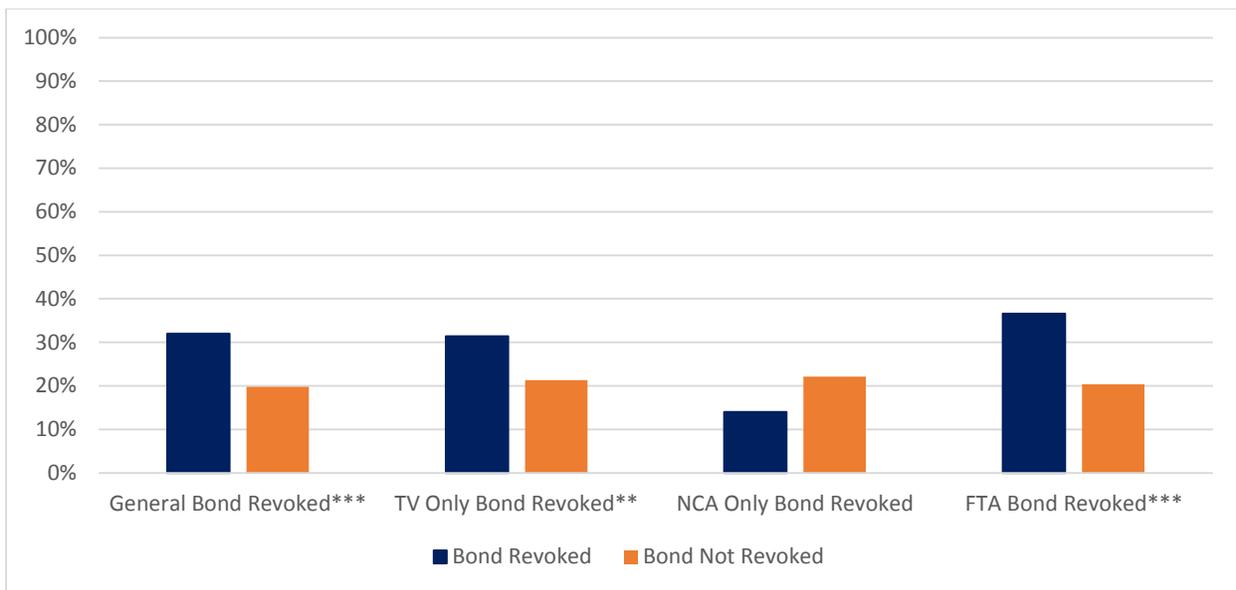


***p<.001, **p<.01, *p<.05

Figure 4
Chi-square Analyses between Bond Revocation and General Probation Revocation

Chi-square analyses were utilized to examine whether there was a relationship between bond revocation and probation revocation regarding technical violations only. Those who had their bond generally revoked, bond revoked due to technical violations, and bond revoked due to failure to appear have a statistically significant relationship ($p < .001$) with probation technical violation revocation. Again, it was found that when a bond was revoked due to only new criminal activity, there was no statistically significant relationship between bond revocation new criminal activity and probation technical violation revocation. This information is depicted in Figure 5. In fact, 32 percent of those who received a bond revocation received a technical violation probation revocation ($p < .001$) compared to 20 percent of those who did not receive a bond revocation who received a technical violation probation revocation. There were 31.40

percent of those who received a bond technical violation revocation who received a probation technical violation revocation ($p < .01$), compared to 21.30 percent of those who did not receive a bond technical violation revocation and received a probation technical violation revocation. Of those who received a failure to appear bond revocation, 36.60 percent received a technical violation probation revocation ($p < .001$), compared to 20.40 percent who did not have a failure to appear who had a technical violation probation revocation.

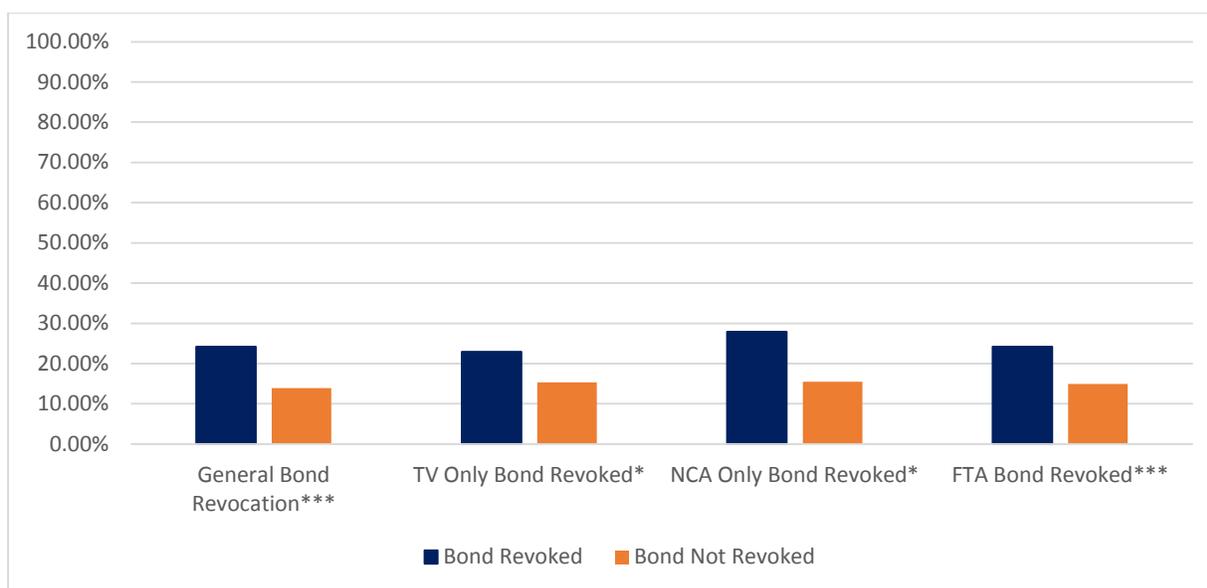


*** $p \leq .001$, ** $p \leq .01$, * $p \leq .05$

Figure 5
Chi-square Analyses between Bond Revocation and Probation Technical Violation Revocation

Chi-square analyses were utilized to examine the relationship between bond revocation and probation revocation that involves new criminal activity only. All bond revocations were statistically significant when examining probation revocations with new criminal activity. Those

who had their bond revoked overall or those who had their bond revoked due to failure to appear had a significance level less than .001. Of those who had their bond revoked overall, 24.20 percent received a new criminal activity probation revocation compared to 13.90 percent of those who did not have their bond revoked overall. Additionally, 24.20 percent of those who had a failure to appear bond revocation had a new criminal activity probation revocation compared to 14.90 percent of those who did not have a failure to appear bond revocation. Those who had bond technical violations and bond new criminal activities had a significance level less than .05. Of those who had their bond revoked due to technical violations, 22.90 percent received a new criminal activity probation revocation compared to 15.30 percent who did not receive a bond revocation due to technical violations. Additionally, 27.90 percent of those who had a new criminal activity bond revocation received a new criminal activity probation revocation compared to 15.50 percent who did not have a new criminal activity bond revocation. This information is depicted in Figure 6.



*** $p \leq .001$, ** $p \leq .01$, * $p \leq .05$

Figure 6
Chi-square Analyses between Bond Revocation and Probation New Criminal Activity Revocation

To explore the relationships between bond supervision outcomes and probation outcomes further, binary logistic regressions were utilized. The multivariate analyses have the same control variables as in the previous models – age (measured linearly in years), LSIR pretrial risk score (linear – points of risk to the community), the supervising agency (Court Services = 0, Community Corrections = 1), race (White = 0, Black = 1), gender (Male = 0, Female = 1), community pretrial supervision participation (no participation on pretrial community supervision = 0, participation on pretrial community supervision = 1), and general bond revocation¹⁶ (did not receive a general bond revocation = 0, received a bond revocation = 1) – with the dependent

¹⁶ All of the variables were placed in a Correlation Matrix to assess the potential for multicollinearity. The only variables that had strong and significant relationships were the types of bond revocations and the types of probation revocations. The bond revocations were not related to probation revocations.

variable changing per the three different probation outcomes – general revocation (no = 0, yes = 1), technical violation only revocation (no = 0, yes = 1), and new criminal activity revocation (no = 0, yes = 1).

Bond revocation and general probation revocation multivariate model. As stated in Table 2, those who receive a bond revocation were almost 90 percent more likely to receive a general probation revocation. When isolating bond revocations due to technical violations only, the binary logistic model explained 14.90 percent to 20.80 percent of the variation in the likelihood that post-dispositional supervision will be revoked generally. This model shows those who receive a technical violation bond revocation were 68.70 percent more likely to have a general probation revocation. Those who had a bond revoked based on failure to appear only were almost 2.2 times more likely to receive a general probation revocation. Defendants who receive a bond revocation based on new criminal activity did not have a statistically significant relationship with general probation revocation. Those who had a bond revocation based on new criminal activity had the same odds of receiving a probation revocation for those who did not have new criminal activity while on bond.

Bond revocation and probation technical violation revocation multivariate model. As previously demonstrated in Table 2, those who received a bond revocation are 51.30 percent more likely to receive a probation revocation with a technical violation only. The binary logistic model which includes bond supervision revocations due to technical violations explained between 7.90 and 12.90 percent of the variation in the likelihood that post-dispositional supervision will be revoked due to a technical violation. Bond revocations regarding technical violations only approached significance ($p=.057$) with probation violations that only have technical violations. The analysis shows those who received a bond revocation with technical

violations only are 73.20 percent more likely to receive a probation technical violation revocation. Those who had a bond revocation regarding a failure to appear only or new criminal activity only did not have differing post-dispositional probation technical violation revocations.

Bond revocation and probation new criminal activity revocation multivariate model.

Table 2 indicates those who received a bond revocation are 59.60 percent more likely to receive a probation revocation with new criminal activity only. Those who had their bond revoked based on technical violations only or new criminal activity only did not have a statistically significant relationship with probation revocations regarding new criminal activity probation revocation.

Those who received a failure to appear only bond revocation were 95.40 percent more likely to receive a probation revocation with new criminal activity only. This binary logistic model had explanatory power and explained between 6.40 percent and 11.40 percent of the variation in the likelihood that post-dispositional supervision will be revoked due to a new criminal activity violation. All of the outcomes regarding bond and probation revocations are displayed in Table 5.

Table 5

Binary Logistic Regression Exponential Odd Ratios Indicating Bond Performance on Probation Revocation.¹⁷

Variable	Probation Revocation	Probation Technical Violation Only	Probation New Criminal Activity Only
Bond Revocation	1.897***	1.513*	1.596*
Bond Technical Violation	1.687*	1.732	1.127
Bond Failure to Appear	2.196***	1.481	1.954*
Bond New Criminal Activity	1.011	.726	1.373

*p < .05, **p < .01, ***p < .001

Surveys

As stated in the Methods Section, surveys were administered among incoming community pretrial supervision participants throughout approximately one year. The survey was administered in the community pretrial supervision orientation (the first appointment for defendants who are to participate in the program). These data were merged with other data including: the defendant’s pretrial risk score (the actuarial risk assessment that was put in use as of 2012), if the charges are violent (or not), age, gender, race, and length of pretrial incarceration.¹⁸ The purpose of the surveys was to analyze the defendant’s perceived impacts of pretrial incarceration. Additionally, the surveys examined pretrial incarceration time and the defendant’s perceived stability within the community before and after incarceration.

¹⁷ Each of these Exponential Odd Ratios were separate analyses conducted to avoid correlation collinearity fallacies. In each multi-variate model, the same controls were applied: age, race, gender, participation on pretrial community supervision, probation supervising agency, days in custody pretrial (dichotomous of less than three days or three days or more), LSI-R pretrial risk score, and bond revocation. The information regarding all covariate analyses can be made available upon request.

¹⁸ A Correlation Matrix was made up of all variables utilized in these analyses. There was no linearity between the variables.

Reported employment after pretrial incarceration. Chi-square analysis indicated a relationship between pretrial incarceration time and reported employment after pretrial incarceration. In order to analyze this relationship further, a binary logistic regression was utilized. Table 6 shows the exponential odds ratio and coefficient for each variable. When conducting the binary logistic regression, all variables were utilized as well as if the individual reported employment prior to pretrial incarceration. The multivariate analysis (the model) was statistically significant ($p < .001$) and examination of the R^2 and Adjusted R^2 revealed that the model explains the amount of variation in the likelihood the dependent variable will occur (reported employment after pretrial incarceration) – between 37.90 percent and 52.20 percent. Those who were incarcerated for less than three days were more than twice as likely to report employment after pretrial incarceration than those who were incarcerated for three days or more. The inverse of the exponential ratio odds was utilized to calculate the extent of this relationship. Additionally, prior employment was a predictor of employment after pretrial incarceration and females were more likely to report employment after pretrial incarceration.

Table 6
Binary Logistic Regression Regarding Reported Employment after Pretrial Incarceration

Variable		Exp(B)
Reported Prior Employment	3.359***	28.748
Pretrial Incarceration Length	-.862***	.422
Age	-.004	.996
Gender	-.533*	.836
Race	-.179	.836
Violent Charge	.183	1.201
Pretrial Risk Assessment	-.075	.593

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

Reported residential issues after pretrial incarceration. Chi-square analysis exposed reported residential issues were more prevalent among those who were incarcerated pretrial for three days or more compared to those who were incarcerated pretrial for less than three days. The multivariate analysis (the model) was statistically significant ($p < .001$) and the binary logistic regression's R^2 and Adjusted R^2 revealed that the model explains the amount of variation in the likelihood the dependent variable will occur (reported residential issues after pretrial incarceration) – between 16.30 percent and 22.90 percent. It was found that pretrial incarceration time approaches significance ($p=.059$) regarding reported residential issues after pretrial incarceration time. If charges were violent and if residential issues were reported prior to pretrial incarceration, then the defendant was more likely to report current residential issues. In fact, those who were charged with a violent crime are more than twice as likely to report residential issues compared to those who were not charged with a violent crime. This information is presented in Table 7.

Table 7
Binary Logistic Regression Regarding Reported Residential Issues after Pretrial Incarceration

Variable	B	Exp(B)
Pretrial Incarceration Length	.334	1.397
Age	-.008	.992
Gender	.228	1.256
Race	-.077	.926
Violent Charge	.726***	2.067
Pretrial Risk Assessment	.019	1.019
Prior Residential Issues	2.187***	8.904

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

Reported financial issues after pretrial incarceration. Chi-square analysis indicates those who were incarcerated three days or more reported significantly more financial issues after pretrial incarceration than those who were incarcerated pretrial for less than three days.

Multivariate analyses were conducted through the binary logistic regression. It was found when controlling for all of the variables, there was not a significant relationship between incarceration time and reported current financial issues.

Reported issues regarding dependent children after pretrial incarceration. Chi-square analysis disclosed those who were incarcerated pretrial for three days or more reported having at least minimal issues regarding their dependent children compared to those who were incarcerated pretrial less than three days. Binary logistic regression was utilized to study this relationship further. The multivariate analysis (the model) was statistically significant ($p < .001$) and examination of R^2 and Adjusted R^2 revealed that the model explains the amount of variation in the likelihood the dependent variable will occur (reported dependent child issues after pretrial incarceration) – between 3.50 percent and 5 percent. It was found that those who were incarcerated for three or more days while awaiting trial were 69.80 percent more likely to report they have issues regarding the care of their dependent children. Additionally, those who were older were more likely to indicate issues regarding the care of their dependent children. This information can be observed in Table 8.

Table 8
Binary Logistic Regression Regarding Reported Dependent Issues after Pretrial Incarceration

Variable	B	Exp(B)
Pretrial Incarceration Length	.530**	1.698
Age	.030***	1.031
Gender	.272	1.313
Race	.037	1.038
Violent Charge	.245	1.278
Pretrial Risk Assessment	-.011	.989

***p < .001, **p < .01, *p < .05

Results Summary

The analyses show that pretrial incarceration has an impact on probation outcome. Defendants who are held in custody for three or more days have a disadvantage regarding community stability (as seen in the survey data) and are less likely to be successful on probation. Those who participate on Johnson County's community pretrial supervision are more likely to be successful on probation whether or not if the individual was successful in the community pretrial supervision program. Additionally, those who received a pretrial revocation were more likely to receive a probation revocation. It was apparent that pretrial experiences may have lasting impacts that extend beyond the pretrial phase in a number of different ways.

CHAPTER 5

DISCUSSION

RQ 1: Pretrial Incarceration and Probation Outcome

The hypothesis that those who are granted community release in a timely fashion (in less than three days) will be more successful on post-conviction probationary supervision than those who are not granted community release in a timely fashion at the pretrial phase was upheld in this study. The analyses lend support to this conclusion as the sample of probationers who are in custody for three days or more while pretrial are less likely to do well on probation compared to those who were in custody for less than three days. The bivariate results show a statistically significant relationship ($p < .001$) between pretrial incarceration and *every* type of probation outcome examined (general, technical violation, and new criminal activity). Those who spent three days or more in custody while awaiting trial failed their probation at significantly higher rates relative to those who were in custody for less than three days. This finding is aligned with the extant literature on both the negative impact of post-conviction incarceration on social ties to the community (Apel & Sweeten, 2010; Clear, Rose & Ryder, 2001; Gentry 2002-2003; Roman & Travis, 2004; Western, 2002; Western & Lopoo, 2004) and on pretrial incarceration's relationship with post-dispositional recidivism (Lowenkamp et al., 2013a). The findings presented here bring together these two disparate literatures and explicitly address the effect of time spent incarcerated pretrial (rather than simply a dichotomous measure of pretrial incarceration) on probation outcomes. Those who had employment, residential stability, and financial stability prior to being charged with a crime can lose their community support with separation from the community (via pretrial incarceration). Therefore, it is not surprising that

this disruption in community support would have potential impacts on community supervision, post-conviction (via probation).

The surveys that were administered in Johnson County support the notion that pretrial incarceration has a detrimental impact on community ties. In fact, through the multivariate analyses, it was found that defendants' pretrial incarceration time was a statistically significant predictor of current employment ($p < .001$) and taking care of dependent children ($p < .01$). Specifically, those who had been incarcerated for three days or more were more likely to report current employment issues. While the survey did not explore specific reasons as to why an individual may have lost employment, it stands to reason that most employers would not allow employees to "no call/no show" for three or more days without termination becoming a distinct possibility. Likewise, those who were incarcerated for three or more days were more likely to report at least minimal issues taking care of their dependent children. As Gentry (2002-2003) found, time spent away from the family due to incarceration can have a detrimental impact on familial relationships.

When conducting the multivariate analyses, days in custody was not a statistically significant predictor of new criminal activity probation revocation. Regardless of the nonsignificant relationship between days in custody and new criminal activity probation revocation, there is still a disadvantage for probation outcomes (general and technical violations) among those who have been in custody for three days or more while awaiting trial compared to those who were released at some point during their pretrial phase. This finding supports the hypothesis that even just three days in pretrial custody can separate an individual from society long enough to create problems for success in post-conviction supervision.

The evidence contained in the analyses above hold the potential for several policy recommendations. If there is such a detrimental impact when an individual is incarcerated three days or more awaiting trial, then policies should be in place regarding those who are facing presumptive probation charges.¹⁹ Personal recognizance bonds should be utilized for those who are facing charges that have the presumption of probation barring any outstanding or mitigating circumstances. In short, avoiding pretrial incarceration for those whose charges carry the presumption of probation would in turn avoid the harm that is brought about by that detention (disruption in employment, residential instability, weakened familial ties, and financial instability). While some will undoubtedly remain concerned about public safety issues in light of the potential for pretrial release for this population (those who are charged with probation-presumptive offenses), it is unlikely that the detention of those people makes any sense, particularly in light of the cost of pretrial incarceration, and the harm that can be done via even a relatively short stay in jail. In other words, the person’s “risk to reoffend” in essence will only increase if they are needlessly detained, and then community-bound. Having this population “free” within the community while awaiting trial does not introduce new public safety concerns, and even if it did, it is important to remember that these people will be in the community at some point in the near future, regardless.

RQ2: Relationship between Receiving Community Supervision While Awaiting Trial (or not) and Probation Outcome

The hypothesis that those who are placed on pretrial community supervision are more likely to be successful on post-conviction probationary supervision than those who were not

¹⁹ Kansas follows a sentencing grid that provides guidelines for judges. This grid takes into consideration the severity of the current charge and the individual’s criminal history.

placed on pretrial community supervision was upheld. Probationers who received community pretrial supervision are less likely to receive a probation revocation compared to those who did not receive community pretrial supervision. The multivariate analyses indicate that those who participate in pretrial supervision are significantly more likely to have reductions in general probation revocations compared to those who were not supervised in the community while awaiting trial. In particular, those who are on pretrial supervision are more than twice as likely to be successful when examining supervision's relationship with technical violation probation revocations. This directly supports the hypothesis that those who are on pretrial supervision are "groomed" for probation. The conditions that defendants/offenders are asked to abide by are very similar for both pretrial supervision and post-conviction supervision. When subjects experience pretrial supervision, they likely become aware of most of the expectations they will be held to for post-conviction supervision. In addition, the relationship between receiving supervision pretrial and reduction in the likelihood of revocation occurred while controlling for whether or not the pretrial supervision was terminated successfully.

An increase in the availability and use of pretrial supervision would be one logical policy recommendation based on the results immediately above. With this recommendation and the previous recommendation of the presumptive probation individuals to not be held in custody, more individuals will need to be supervised by pretrial supervision in the community. With this influx of defendants, caseloads for the pretrial supervision agency should be monitored to ensure the agency can provide appropriate supervision. If this is not possible, the supervision may not be as effective as it has proven to be with this sample. Therefore, if caseloads increase significantly, more staff may be needed. Additionally, the RNR model applies to supervision by dictating that those who are low risk (according to a valid actuarial measure) should not be

supervised intensely, if at all, while awaiting trial (Andrews & Bonta, 2006; Andrews, Bonta, & Hoge, 1990; Lowenkamp et al., 2013a). Therefore, it is recommended that those who are deemed low risk by the pretrial risk assessment should not be supervised while pretrial (including incarceration and community pretrial supervision).

Race was a predictor for both general probation revocation and technical violation probation revocation. Regrettably the data do not exist within the confines of the current project to investigate the relationship between race and other factors as they relate to probation revocation. The intersection between race and justice processing has been and will likely remain an important issue in current events and within the broader culture. More research is needed in order to better understand race and justice processing as well as race and its intersectionality with other social factors and domains as well (such as income, housing, education, gender, and etcetera).

Supervising agency (Court Services vs. Community Corrections) was a predictor of post-conviction probation outcome. Those who are supervised by an agency that conducts intensive supervision (Community Corrections) probation are more likely to have a probation violation (and in turn a revocation of supervision). Prior literature has demonstrated the relationship between increased surveillance (frequency and duration) and the likelihood of probation violations being detected and acted upon (Petersilia & Turner, 1990). In Johnson County, those who are on intensive supervision probation are supposed to be of a higher actuarial risk to reoffend (based on the LSI-R score) and typically have a longer supervision time (or time at risk). It is recommended for Community Corrections to obtain training to provide more techniques to address technical violations among a high-risk population.

Both age and the pretrial risk assessment using pre-existing LSI-R items were predictive for new criminal activity probation revocations. Age is a surprising finding because it contradicts previous literature. This study indicated that those who were older were more likely to obtain a new criminal activity probation revocation. The reason behind this counterintuitive relationship is unknown because previous literature contends that as an individual ages, they become less likely to engage in criminal activities (Piquero, 2008; statin, Manusson, & Reichel, 1989). The direction of the relationship between the LSI-R pretrial scale and new criminal activity was not a surprise however. The LSI-R's purpose is to predict recidivism (Andrews & Bonta, 2000). Therefore, the study shows that the LSI-R functions as intended (or at least the sub-set of items utilized in this study do), predicting the likelihood of recidivism while on probation.

RQ 3: Relationship between Performance on Community Release and Performance on Post-Conviction Probationary Supervision

The hypothesis that those who are successful on pretrial community supervision are more likely to be successful on post-conviction probationary supervision than those who are not successful on pretrial community supervision was upheld. Those who obtain bond revocations (whether the individuals are being supervised or those who are not supervised) are more likely to receive a probation revocation. When the bivariate analyses were conducted, most of the bond revocation types were found to be significantly related to probation revocations. When conducting the multivariate analyses, some of these significant relationships dissipated. Where the relationships dissipated, there were other control variables that were found to be significant predictors of probation outcomes. Policy recommendations are driven mostly by the multivariate

analyses as these results control for more variables to better narrow the impact of the independent variable (pretrial status) on the dependent variable (probation outcome).

The strongest relationship within the multivariate models are those between general bond revocation and all three types of probation revocations. General bond revocation was found to be a predictive variable across the board for all probation revocation types. General bond revocation was one of the strongest predictive variables for general probation revocations. The behavior involved in a bond revocation – whether through technical violations, new criminal activity, or failure to appear – demonstrates anti-social tendencies. Consequently, it may not be surprising for the same group to struggle with these antisocial behaviors while on post-conviction probation. In Johnson County, KS the probation supervising agency (Court Services vs. Community Corrections) is determined by the offender’s LSI-R-based risk level. If an individual is likely to obtain probation (based on the Kansas Sentencing Guidelines), the individual will go through an LSI-R assessment. The results of the LSI-R assessment will then determine the supervising agency and set up the probation plan to address the riskiest areas in the probationer’s life for recidivism. It is recommended that if an individual has a motion to revoke his/her bond on record, more supporting interventions should be utilized (such as more assistance with at risk areas deemed by the LSI-R) to assist the individual in being successful while on probation. By the probation officers approaching the individuals who have had a bond revocation in this manner, the added support should help reduce probation revocations.

Failure to appear was found to be significant for general probation revocation and for new criminal activity probation revocation. While the link between failure to appear (usually due to disregard for the system or living in disorder) and general probation revocation is not surprising, the fact that it is linked to new criminal activity is. Failure to appear has never been

linked to new criminal activity. In fact, failure to appear has no inherent link to new criminal activity. This finding is new to the literature and should be explored in more depth. For example, if this research were to be replicated, it is possible that the individuals who have a failure to appear may be a threat to public safety. Therefore, policy recommendations should be focused on the reduction of new criminal activity among this population, such as enhanced supervision, court date notification strategies, or perhaps behavioral change strategies that could be implemented by pretrial supervision officers. Again, for those who have a failure to appear, the probation plan should provide extra support in the areas the LSI-R deems in need of attention. Based on the purpose of the LSI-R, these areas are more than likely related to the possibility of recidivism.

Limitations and Future Research:

As with most research, the current study has some limitations that bear acknowledgement. This study does not directly measure time at risk in the community for those who are on probation. When calculating post-conviction supervision, time at risk is an essential measure to control for, as there was undoubtedly substantial variation in the amount of time people were on post-disposition supervision. While time on supervision in the community was not assessed directly, it should be noted that the average time at risk for Johnson County is higher for those who are supervised by Community Corrections compared to Court Services. The supervising agency variable was included in all of the multivariate models and cannot serve as a proxy for time on supervision, however, it might account for some of the impact that amount of time supervised might have had.

In addition, there was no actuarial pretrial risk assessment used as a control variable. Johnson County has a pretrial risk assessment that was implemented in 2012. Therefore, only a

small percentage of individuals who were in the sample for this study had a pretrial risk assessment completed (and not nearly enough that would allow for the risk assessment to be included in analyses). As noted above, a subset of static LSI-R items (those that would have been scored the same way at the pretrial phase of case processing for each case) was utilized as a proxy for criminogenic risk. While this measure of risk did serve as a potentially important control variable in the multivariate analyses, it was only revealed as a significant predictor in one of the models. Although, it should also be noted that the measure of risk did differ significantly when comparing the cases based on outcome (and did so in the expected direction). Future research should ensure the utilization of a true measure of pretrial actuarial risk, ideally one that is predictive of Failure to appear, new criminal activity, and new violent criminal activity.

Since there was an impact on probation outcome regarding pretrial incarceration time, one area, which should be researched further is if there is a similar impact regarding shock time utilized after sentencing. In Johnson County, KS, periods of “shock time”—or time which an individual has to be incarcerated in the local facility before starting probation—can be lengthy (up to 90 days, for example). This practice should be explored further to see if there is a disadvantage to those who are incarcerated prior to community supervision as the time in custody (again) may likely disjoint an individual from the community. This separation could have an impact on the success rate for those who obtain community supervision, and the impact could be larger than even the pretrial period (due to time in custody pretrial typically lasting less than 45 days).

Future research should explore if pretrial status also impacts those who have their probation revoked in court and subsequently serve their incarceration time. Additionally, this data set should be linked up with post-conviction recidivism to further assess the impact of

pretrial status regarding recidivism. Whereas this study incorporates some recidivism (with the new criminal activity revocations), a longer period of time covering all arrests among the population would be beneficial.

APPENDIX
Survey
Pretrial Release

Johnson County is in the process of revising several aspects of the pretrial justice system which includes release decisions, setting of bond, supervision levels, services offered, and the like. What follows is a brief survey with a handful of questions, about two and a half pages long. Your answers regarding what your experiences were as you went through the pretrial process are very valuable to us and can help us greatly as we make what we hope will be positive changes for everyone in the future. **Your responses to these questions will have absolutely no impact on your case in any way.** In addition to asking some straightforward questions, we will also ask you to speculate about what “might” have occurred if some things had been different (such as the amount of bond that was set, for example).

Your participation is extremely important, and we thank you for your help!

1. Case #: _____

2. How long were you in jail? (check one): _____ **Less than 3 days** _____ **3 days or more**

Section: Employment

3. Were you employed **prior to your most recent time in jail?** (circle 1): **Yes** **No**

4. Are you employed **now?** (circle 1): **Yes** **No**

5. If Yes (employed **prior to being in jail**) **are you working at the same place?** **Yes** **No**

6. If Yes (**working at the same place**), were there any consequences due to your time in jail (less hours, temporary suspension, demotion, etc.)? **Yes** **No**

Section: Financial

7. **Before your most recent arrest**, which response best describes your financial stability/situation?
0 = No problems at all (e.g., it's somewhat easy to meet your expenses; perhaps you have some savings)
1 = Occasional issues come up that make money tight, but you are able to get through them
2 = Living check-to-check and hope that no unexpected expenses come up
3 = Having fairly consistent difficulty meeting expenses; I might have to borrow money once in awhile
4 = Have a large amount of difficulty meeting expenses; I owe money; Utilities at risk of being shut off

8. How would you describe your financial stability/situation **now?**
0 = No problems at all (e.g., it's somewhat easy to meet your expenses; perhaps you have some savings)
1 = Occasional issues come up that make money tight, but you are able to get through them
2 = Living check-to-check and hope that no unexpected expenses come up
3 = Having fairly consistent difficulty meeting expenses; I might have to borrow money once in awhile
4 = Have a large amount of difficulty meeting expenses; I owe money; Utilities at risk of being shut off

Section: Residential

9. **Before** your most recent arrest/pretrial incarceration, which response best describes your **residential situation?**

0 = Everything was fine; stable residence that I could rely on
1 = Mild issues at times (e.g., a little behind on rent on occasion; or people I live with not good/happy)
2 = Somewhat moderate issues (e.g., not able to afford my place; in danger of losing it)
3 = Serious issues (e.g., constantly needing to think of different options for me; crashing w/friends)
4 = Serious unmanageable issues (e.g., homeless, and/or completely dependent on others)

10. **What impact** has your most recent arrest/pretrial incarceration had on your **residential situation?**

0 = None; Everything is fine; I still have a stable residence that I can rely on
1 = Mild issues (e.g., now I'm a little behind on rent on occasion; or people I live with not good/happy)
2 = Somewhat moderate issues (e.g., I'm now not able to afford my place; in danger of losing it)

- 3 = Serious issues (e.g., I'm now needing to think of different options for me; crashing w/friends)
- 4 = Serious unmanageable issues (e.g., I'm now homeless, and/or completely dependent on others)

Section: Family/Children

11. **If applicable** what impact has your most recent arrest/incarceration had on your situation with your dependent children under 18 (regardless of who has actual custody)?

- 0 = No impact
- 1 = Some impact (e.g., it is now more difficult for me to visit/spend time with them, but it's manageable)
- 2 = Some impact that's difficult (e.g., my co-parent wants a third party present when we visit)
- 3 = Some impact that's barely manageable (e.g., lots of conflict/threatened with not having contact)
- 4 = Extremely negative impact that's not manageable (e.g., I'm not allowed to have contact)

12. **If applicable**, has your most recent arrest/incarceration caused you **concern about the possibility of losing custody** of one or more of your dependent children under 18?

Yes **No**

13. **If applicable**, has your most recent arrest/incarceration caused any problems in your ability to support your children or make support payments?

Yes **No**

Section: Your Case – bond amounts and time in jail

14. If an amount of bond was set, how much was it? \$ _____

15. If an amount of bond was set, how easy was it for you to come up with the money?

- 0 = No problem at all
- 1 = A little difficult (I had to rely on another source like a family member but it was no problem for them)
- 2 = Somewhat difficult (I had to rely on another source like family and it was difficult for them)
- 3 = Very difficult (I had to rely on multiple sources, with great difficulty)
- 4 = Extremely difficult (lots of problems raising the money; came close to not making it)

16. If you were approved by a bail bonds company, **but did not use them**, please indicate why you didn't:

17. If you contacted a bail bonds company **but did NOT get approved by them**, please indicate what you think the reason was:

18. **If applicable**, did anyone (family, friends, significant other,) help you make bail?

Yes **No**

19. If your family/friends/significant other **did not** help you with your bond, please state the reason (**check ANY that apply**)

- | | |
|--|-------------------------------------|
| _____ They do not have the money | _____ They do not want to help me |
| _____ They don't know about the trouble I'm in | _____ I have NO contact with family |
| _____ I do not want my family's help at all | _____ Other reason |

Please state "Other" reason here:

20. If an amount of bond was set as you stated above, suppose that it was actually **double the amount**. Rate the **likelihood that you would have been able to come up with that amount?**

- 0 = No problem at all
- 1 = A little difficult (I would rely on another source like a family member but it would be no problem)
- 2 = Somewhat difficult (I would rely on another source like family and it would be difficult for them)
- 3 = Very difficult (I would rely on multiple sources, with great difficulty)
- 4 = Extremely difficult (I would have lots of problems raising the money; would probably not make it)

21. If an amount of bond was set as you stated above, suppose that it was actually **triple the amount**. Rate the **likelihood that you would have been able to come up with that amount?**

- 0 = No problem at all
- 1 = A little difficult (I would rely on another source like a family member but it would be no problem)
- 2 = Somewhat difficult (I would rely on another source like family and it would be difficult for them)
- 3 = Very difficult (I would rely on multiple sources, with great difficulty)
- 4 = Extremely difficult (I would have lots of problems raising the money; would probably not make it)

22. So -- if you had spent an **additional three days in jail**, if you had a job **before** entering jail, what would be the likelihood that you would be able to **keep** that job (again, if you spent three MORE days in jail than you did -- circle the most appropriate response)?

- 0 = I would definitely keep the job, no problem
- 1 = I would get in trouble, like get written up, but I would be able to return to my job once I got out
- 2 = I would *probably* get fired
- 3 = I would definitely get fired, but would likely be able to find another job quickly
- 4 = I would definitely get fired, and would have difficulty finding another job quickly

23. So -- if you had spent an **additional three days in jail**, what would be the likelihood that you would **keep** the place you were living/staying before?

- 0 = I would have no problem keeping/staying at the place I was
- 1 = I would have some residential problems but nothing I couldn't handle
- 2 = I would probably have to find a new place to live, but could do so with a little or some difficulty
- 3 = I would probably have to find a new place to live, but would have great difficulty doing so

4 = I would have extreme difficult; might likely end up homeless

24. Aside from the **most recent arrest**, are there other open cases or arrests that are currently an issue for you?

Yes

No

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VITA

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