

Does New York's Bail Reform Impact Recidivism?

A Quasi-Experimental Test in New York City

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STRENGTH IN NUMBERS

CUNY The City
University
of
New York

New York's Bail Reform

Took effect on January 1, 2020

Key Components

1. ***Banned cash bail and pretrial detention*** for most misdemeanors and nonviolent felonies
2. ***Reduced the use of bail for cases that remained eligible for it*** (virtually all violent felonies)
 - Universal availability of pretrial supervision
 - Required release unless demonstrable “risk of flight”
 - “Least restrictive” condition provision

2020 Bail Amendments

Took effect on July 2, 2020

Key Changes

- ***Returned discretion to judges to bail or detain*** people for ***certain charges*** or ***under certain circumstances*** originally made bail ineligible

Effects of New York's Bail Reform on Crime Rates

RQ: *Did bail reform lead to a loss of general deterrence, thereby increasing index crime rates in New York State?* (Wu & McDowall, 2023)

Methods: Comparison of the change in index crime rates pre- vs. post reform vs. the changes in index crime rates in other states

Findings:

- Certain index crimes increased following bail reform, but they also increased at similar rates in other states
- Hence, the crime increases in New York State cannot be attributed to bail reform

Recidivism Impact of Bail Reform – Two Competing Theories

- Release under reform increases recidivism:
Necessary implication of not incapacitating people in jail.
- vs.
- Release under reform reduces recidivism:
Avoids “criminogenic effects” of pretrial detention once people are released.

The Current Study – Research Questions

Did bail reform affect public safety?

1. Recidivism impact of eliminating bail and detention
2. Impact of reforms reducing the use of bail in legally eligible cases
3. Impacts of bail reform by charge or criminal history characteristics
4. Impact of the 2020 amendments

The Current Study - About the Data

- **Source:** Office of Court Administration (OCA), *non-public data (2017 – June 2022)*
- **Prosecuted Arrests** (misdemeanors or felonies)
- **Location:** New York City
- **Samples:** First Halves of 2019 & 2020
- **Criminal History:** Two years in the past
- **Recidivism:** Through June 30, 2022 (min. two-year follow-up)

Analytic Approach

- **Not Pretrial Re-Arrest:** Min. Two-Year Follow-Up (30 months for some)
- **Relevant Comparison:** Released Under Reform vs. Bail Set or Remanded
- **Matched Samples:** Criminal history, charges, demographics
- **Multiple Outcomes:** Overall, felony, VFO, & firearm re-arrest
- **Two Types of Analyses:**
 1. Likelihood of re-arrest within 2 years
 2. *How quickly* were people re-arrested? (*up to 30-month tracking period*)

RQ 1.

**Recidivism Impact of Eliminating
Bail and Detention**

RQ 1. Impact of Eliminating Bail and Detention

Pre-Post Design

Comparison Group

Bailed/remanded pre-reform
(Jan-June 2019)

*Portion of Two-Year Follow-Up Period
Detained:*

Ave. 61 days (Median 11)

versus
similar
people

Bail Reform Group

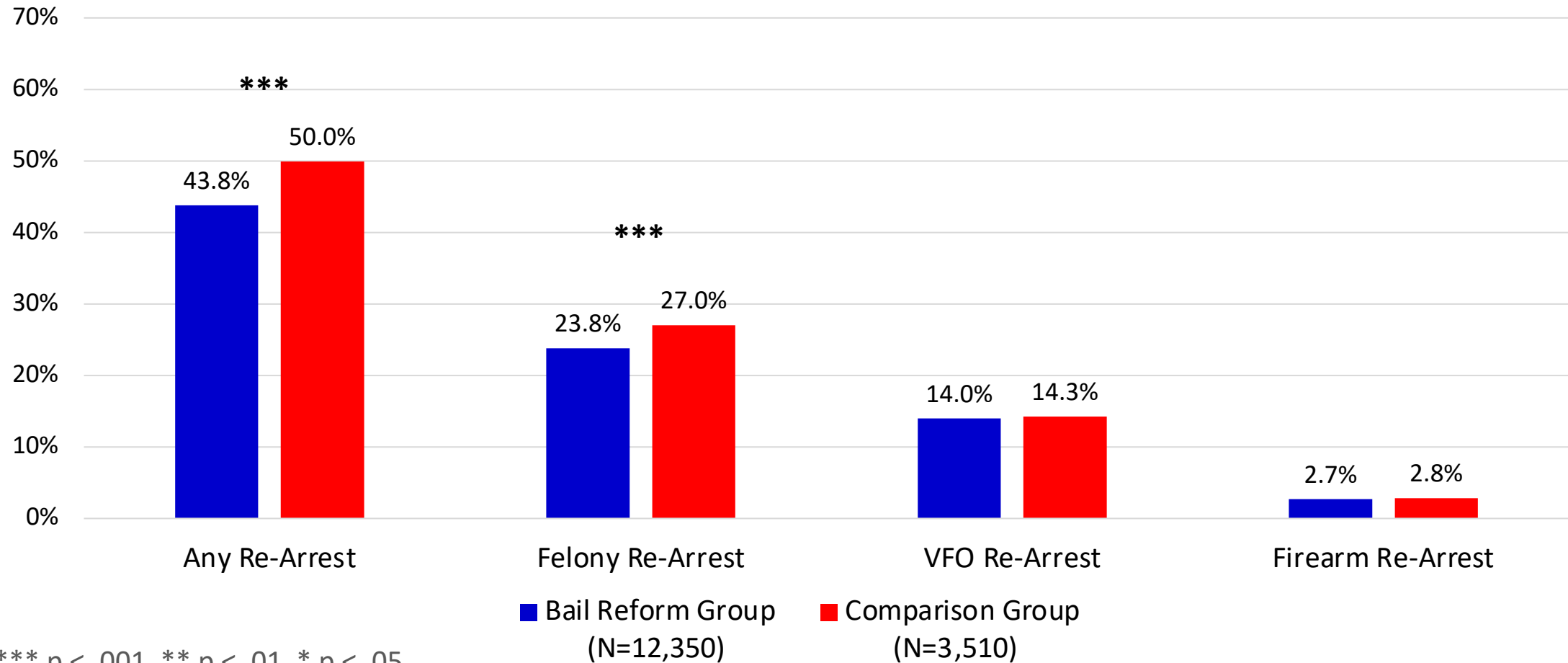
Released post-reform
(Jan-June 2020)

*Portion of Two-Year Follow-Up Period
Detained:*

Ave. 3 days (Median 0)

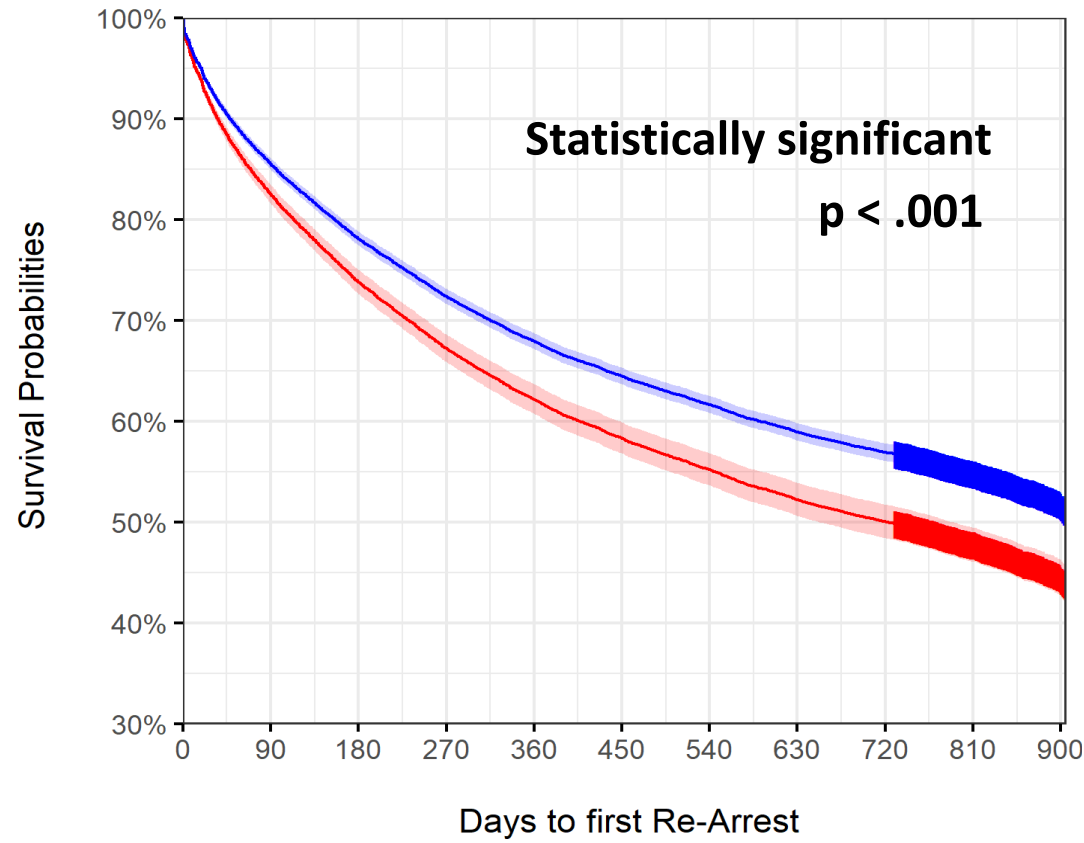
RQ 1. Impact of Eliminating Bail and Detention

Two-Year Re-Arrest Estimates by Group

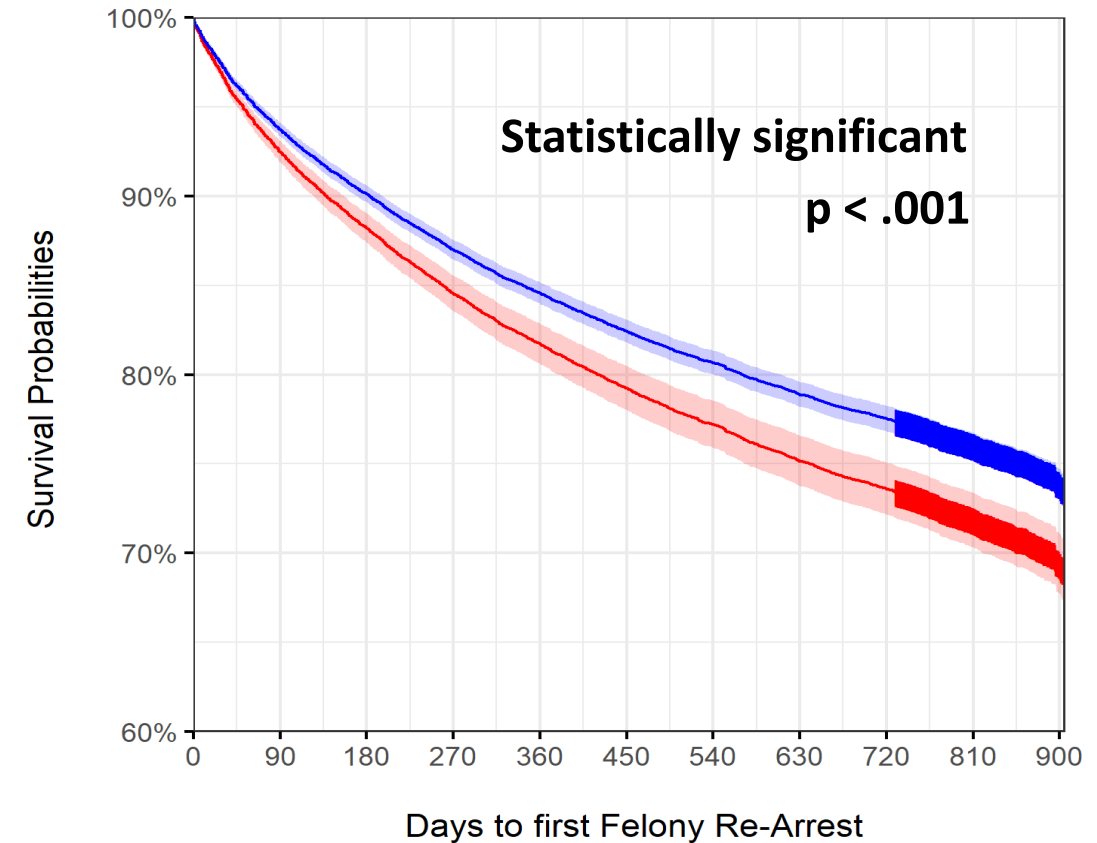


RQ 1. Impact of Eliminating Bail and Detention

Probabilities of Survival without Re-Arrest by Group



+ Comparison Group + Bail Reform Group



+ Comparison Group + Bail Reform Group

RQ 1. Impact of Eliminating Bail and Detention

Two-year recidivism: Release without bail reduced overall & felony recidivism

Survival analysis: Release without bail delayed overall, felony, & VFO recidivism

Upshot

- Eliminating bail and detention *reduced* recidivism

RQ 2.

**Recidivism Impact of the Reduced use of Bail
in Legally Eligible Cases**

RQ 2. Recidivism Impact of the Reduced use of Bail

Pre-Post Design

Comparison Group

Bailed/remanded pre-reform
(Jan-June 2019)

*Portion of Two-Year Follow-Up Detained:
Ave. 109 days (Median 8)*

versus
similar
people

Bail Reform Group

Released post-reform
(Jan-June 2020)

*Portion of Two-Year Follow-Up Detained:
Ave. 2 days (Median 0)*

Contemporaneous Design

Comparison Group

Bailed/remanded post-reform
(Jan-June 2020)

*Portion of Two-Year Follow-Up Detained:
Ave. 118 days (Median 7)*

versus
similar
people

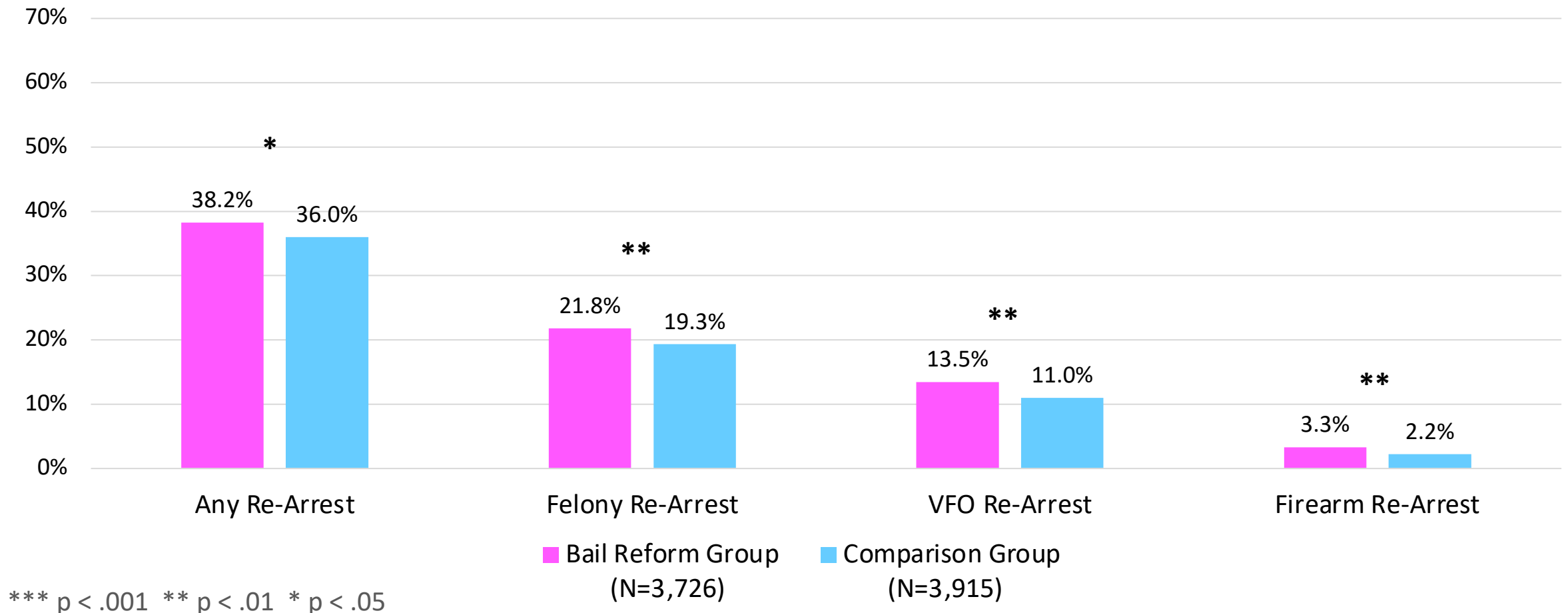
Bail Reform Group

Released post-reform
(Jan-June 2020)

*Portion of Two-Year Follow-Up Detained:
Ave. 2 days (Median 0)*

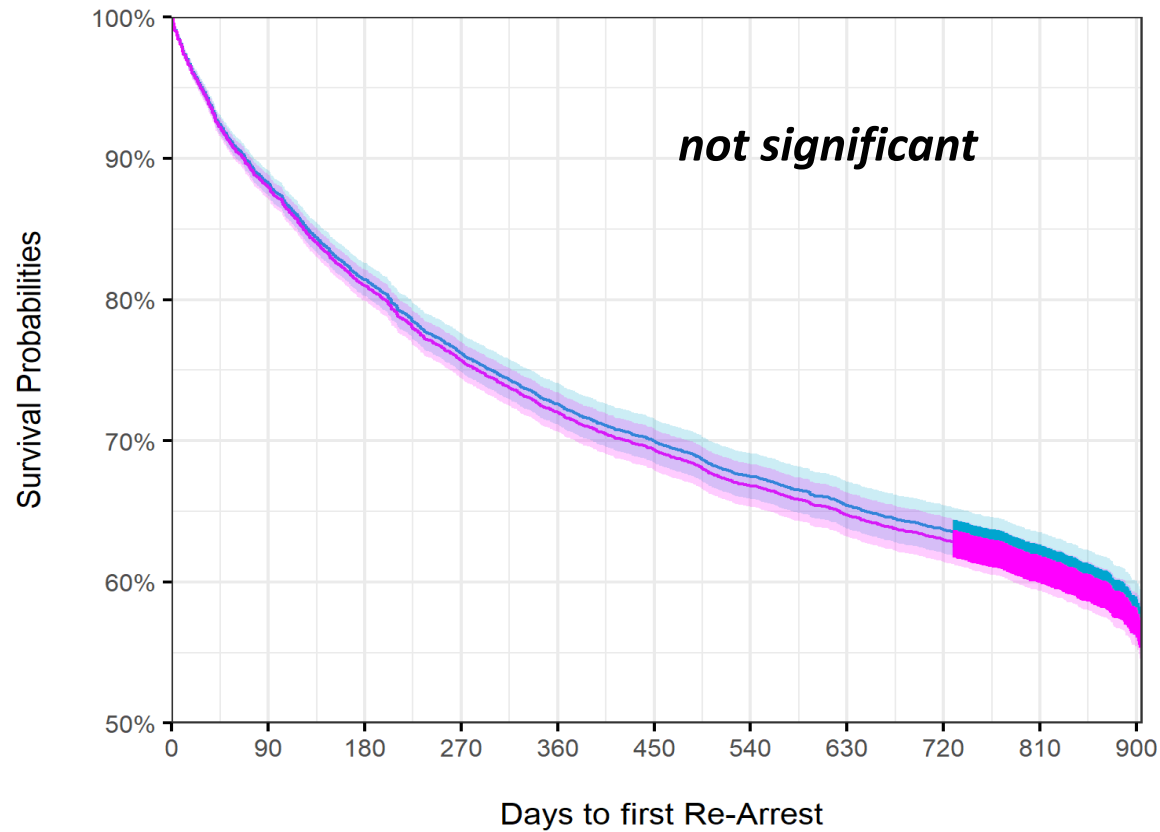
RQ 2. Recidivism Impact of the Reduced use of Bail

Two-Year Re-Arrest Estimates by Group – Pre-Post Analysis

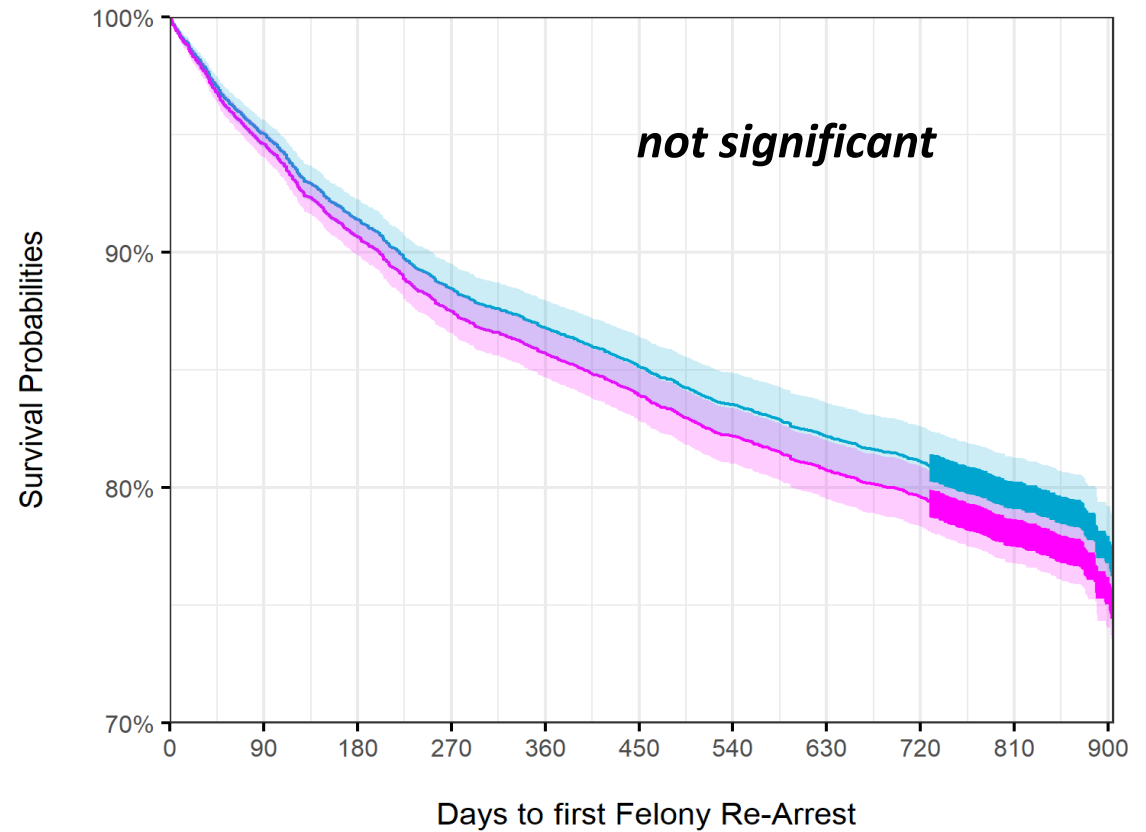


RQ 2. Recidivism Impact of the Reduced use of Bail

Probabilities of Survival without Re-Arrest by Group – Pre-Post Analysis



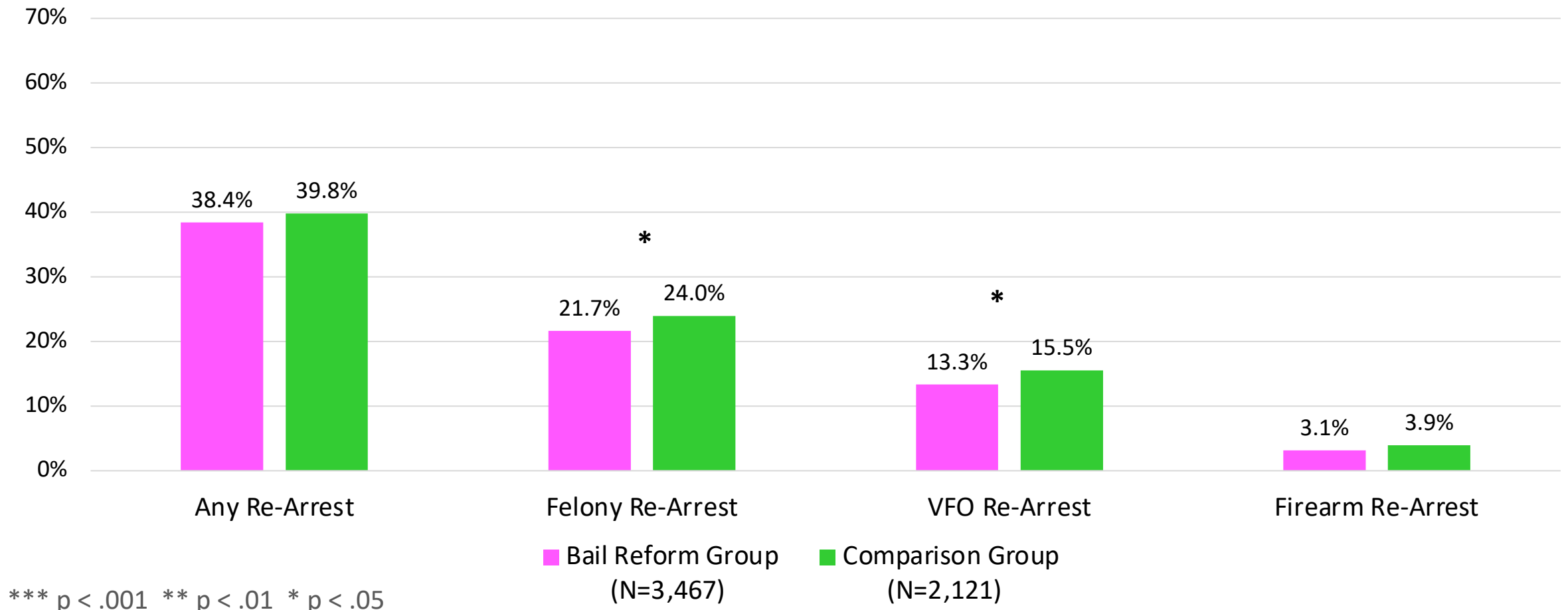
Comparison Group Bail Reform Group



Comparison Group Bail Reform Group

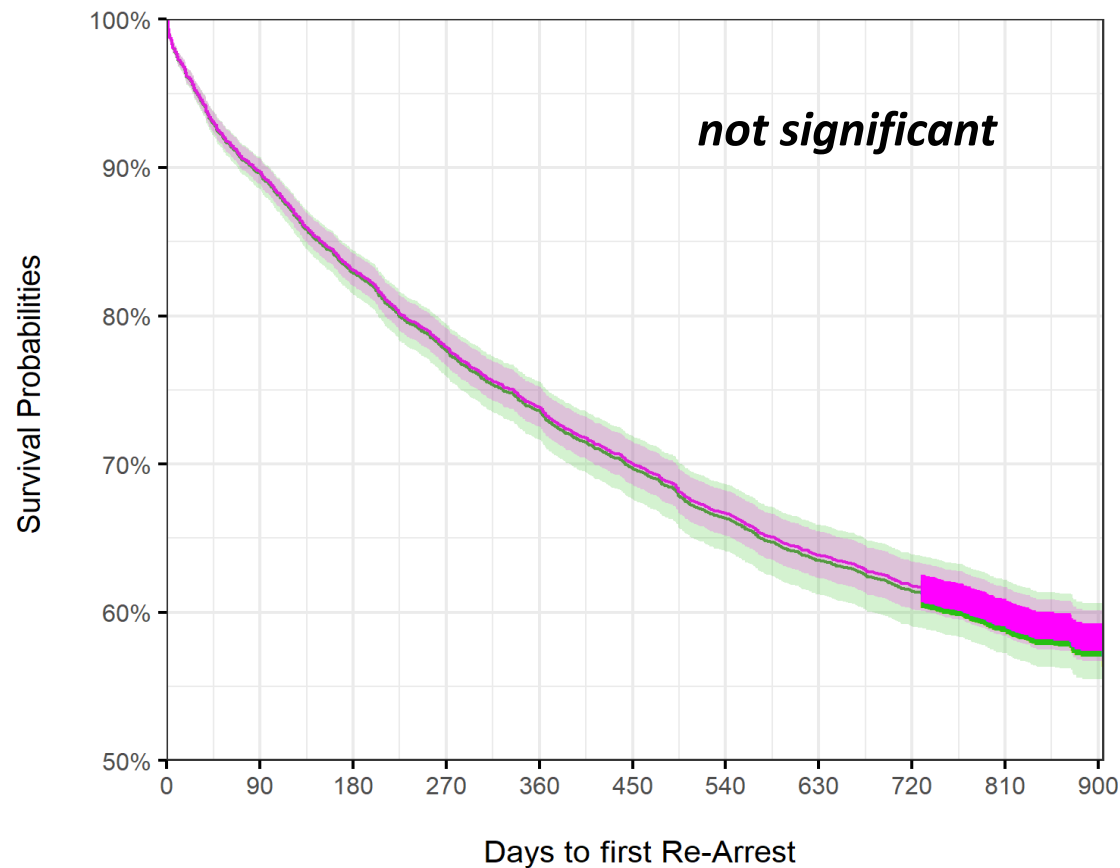
RQ 2. Recidivism Impact of the Reduced use of Bail

Two-Year Re-Arrest Estimates by Group – Contemporaneous Analysis

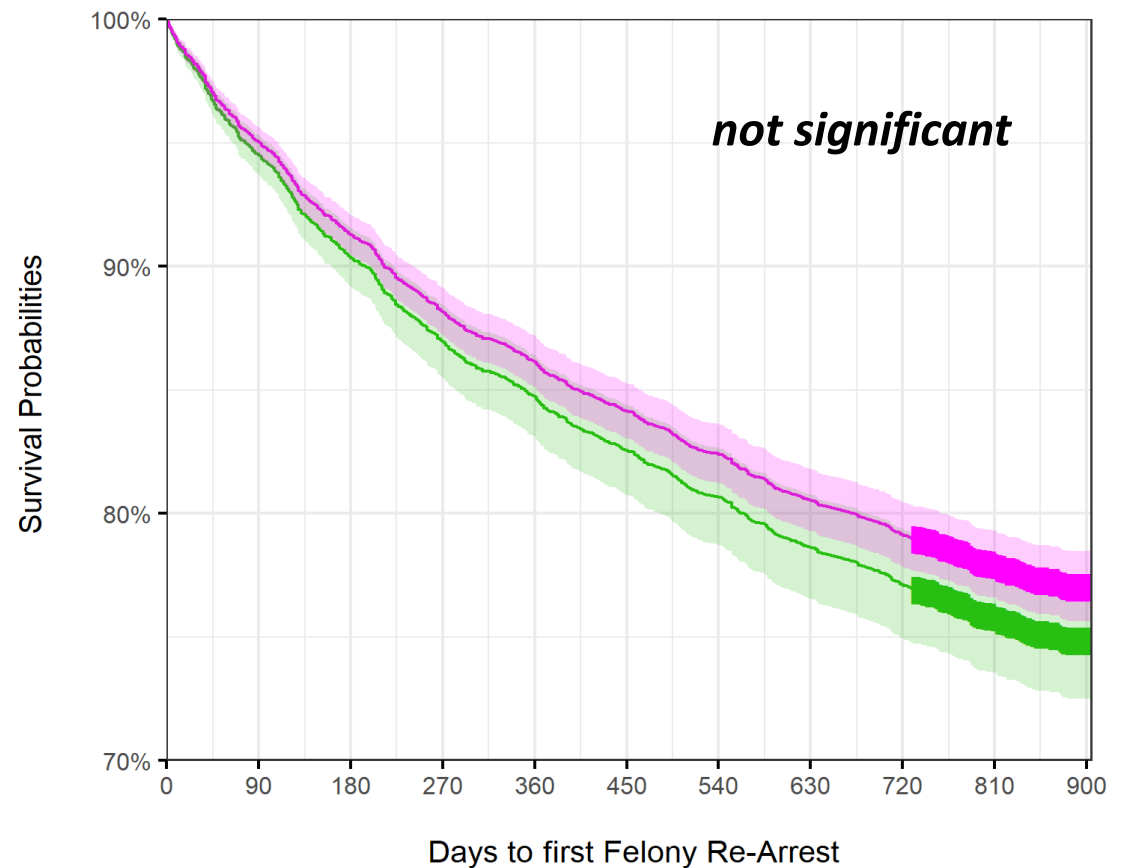


RQ 2. Recidivism Impact of the Reduced use of Bail

Probabilities of Survival without Re-Arrest by Group – Contemporaneous Analysis



+ Comparison Group + Bail Reform Group



+ Comparison Group + Bail Reform Group

RQ 2. Recidivism Impact of the Reduced use of Bail

	Pre vs. Post	Contemporaneous
Two-year recidivism	Slight recidivism increase <i>(any, felony, VFO, firearm)</i>	Slight recidivism decrease <i>(felony, VFO)</i>
Survival analysis	Slightly more quickly re-arrested <i>(firearm)</i>	Null effects

- Inconsistent findings across the two research designs
- Small or statistically non-significant effects

Upshot

- ***Releasing more bail eligible people did not affect recidivism in either direction.***

RQ 3.

**Recidivism Impacts by
Charge and Criminal History Characteristics**

RQ 2: Effects by Charge or Criminal History

Effects by Charge

- Misdemeanor vs. Felony *(mandatory release)*
- Misdemeanor/NVF vs. VFO *(bail eligible)*

Effects by Criminal History

- Prior arrest vs. No prior arrest
- Prior VFO vs. No prior VFO
- Pending case vs. No pending case

RQ 3. Effects by Charge or Criminal History

Mandatory Release Cases

Release reduced recidivism (<i>any, felony, VFO</i>)		Release increased recidivism (<i>any, felony, VFO</i>)	
<u>Subgroups</u>	<u>% of total sample</u>	<u>Subgroups</u>	<u>% of total sample</u>
Misdemeanors	72%	Recent VFO	9%
No Recent Arrests	50%	Pending Case	15%
No Recent VFOs	91%		
No Pending Case	85%		

Bail Eligible Cases

Release reduced recidivism (<i>any</i>)		Release increased recidivism (<i>any</i>)	
<u>Subgroups</u>	<u>% of total sample</u>	<u>Subgroups</u>	<u>% of total sample</u>
No Recent Arrests	53% / 55%	Recent VFO	11%

RQ 3. Effects by Charge or Criminal History

Upshot

Release without bail tended to:

- ***Reduce recidivism*** for people facing ***less serious charges*** and with ***limited or no recent criminal history***
- ***Increase recidivism*** for people with more ***substantial criminal histories***

Summary of Findings

1. Eliminating bail and detention ***reduced recidivism***.
2. Reducing the use of bail in cases still legally eligible for it ***did not affect recidivism***.
3. Bail reform tended to:
 - ***Reduce recidivism*** for people facing less serious charges and with limited or no recent criminal history
 - ***Increase recidivism*** for people with more substantial criminal histories

Forthcoming Research

- **Quasi-Experimental Recidivism Study – Upstate NY**
- **Time Series Analyses**
 - NYC
 - Rest of NY State
- **Follow-Up Recidivism Study: Longer-Term Tracking Period**

Study Limitations

Data Limitations

- Prosecuted arrests
- Unobserved baseline differences
- Top arraignment charges

Design Limitations

- Possible pre-post design bias

Did the COVID-19 pandemic bias our findings?

- Onset of pandemic → dip in arrests, prosecution rates, and clearance rates
- Hence, re-arrest rates were suppressed for **both** samples, but more so for the pre-reform sample
- **Pre-reform sample** – 2-year tracking period ended in June 2021
 - Everyone's tracking period includes **the entirety of 2020**
- **Bail Reform sample** – 2-year tracking period ended in June 2022
 - Enrollment **started** in 2020, so re-arrest rates are less dampened by the “COVID impact”
 - Example: People arraigned in June 2020 → only 6 months of their tracking period affected by COVID