Pandemic Policymaking and Changed Outcomes in Criminal Courts

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with research support from Thomas Sloan
Pandemic conditions profoundly impacted California’s justice system

- Police curtailed in-person interactions
- Most—though not all—courts closed to the public
- Arrest rates plummeted
- Rates at which criminal cases resolved fell further and stayed lower longer
A backlog of at least 55,000 criminal cases accumulated during 2020
Criminal courts adopted policies to adjust to pandemic conditions

- Zero bail policies were imposed by the state and counties
- Timelines lengthened for criminal proceedings
- Criminal courts began to conduct hearings remotely
Counties could choose whether to implement pandemic policies—and for how long

- 9 counties did not adopt remote hearings
- 20 counties allowed remote hearings for more than three-quarters of 2020
Uneven adoption of pandemic policies led to racial disparities in exposure

<table>
<thead>
<tr>
<th></th>
<th>Remote Hearing Policy</th>
<th>Arraignment Extension Policy</th>
<th>Zero Bail Policy</th>
</tr>
</thead>
<tbody>
<tr>
<td>Latino</td>
<td>52.3</td>
<td>32.4</td>
<td>60.9</td>
</tr>
<tr>
<td>Black</td>
<td>51.4</td>
<td>31.9</td>
<td>58.5</td>
</tr>
<tr>
<td>Asian American</td>
<td>46.6</td>
<td>26.0</td>
<td>56.9</td>
</tr>
<tr>
<td>White</td>
<td>44.8</td>
<td>28.0</td>
<td>52.9</td>
</tr>
<tr>
<td>Native American</td>
<td>44.7</td>
<td>22.4</td>
<td>45.1</td>
</tr>
</tbody>
</table>
Remote hearings continued as other policies ended

- Remote criminal hearings are allowed through 2023
  - Felony trials are excepted
- Legislators may extend or modify the policy
- Understanding how remote hearings affected case outcomes can inform these decisions
Conviction rates fell when remote hearing policies were in place

- Misdemeanor conviction rates dropped most for black people
- Felony conviction rates fell farthest for white people

Percentage points reflect statistically significant average marginal effects (AME).
Sentencing patterns changed under remote hearing policies

- Misdemeanor convictions led to probation and fines, not jail
- Felony convictions were more likely to result in jail than prison
**Sentencing impacts offset each other**

<table>
<thead>
<tr>
<th>Misdemeanors</th>
<th>Felonies</th>
</tr>
</thead>
<tbody>
<tr>
<td>Money Sanction</td>
<td>0.96</td>
</tr>
<tr>
<td>Probation</td>
<td>0.97</td>
</tr>
<tr>
<td>Jail</td>
<td>-2.10</td>
</tr>
<tr>
<td>Prison</td>
<td>0.05</td>
</tr>
</tbody>
</table>

Percentage points reflect statistically significant AME. Jail and prison marginally statistically significant at p=0.06.
Remote hearing policies contributed to racial inequities in criminal case outcomes

- Remote hearings explain race differences in conviction rates
  - 13% of the difference between Latino and white people
  - 8% of the difference between Black and white people

- These policies explain about 5% of race differences in sentences

- Other factors that affect racial equity include prior arrests and prior convictions
Remote hearing policies affected case outcomes and how equitable they were

- Remote hearings affect whether people are convicted and how they are sentenced
  - Remote hearings do more than facilitate access to courts

- Racial equity impacts are mixed
  - Inequitable outcomes predated the pandemic and persisted amid it
More complete data could aid research and policymakers

- Future research should focus on arraignment outcomes
  - Plea bargaining limits defendants’ exposure to other hearings

- Augmenting data collection would enable this research
  - Whether hearings are held remotely or in person
  - Prosecution decisions, pretrial detention, and failure to appear rates
Notes on the use of these slides

These slides were created to accompany a presentation. They do not include full documentation of sources, data samples, methods, and interpretations. To avoid misinterpretations, please contact:

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Thank you for your interest in this work.