

Pandemic Policymaking and Changed Outcomes in Criminal Courts

Remote hearings are the major policy to endure from the set of interventions introduced in California criminal courts in response to COVID-19. With remote hearings expiring in 2023, as specified in Assembly Bill 199, insights into the policy's impact on conviction and sentencing outcomes can help policymakers determine whether courts should continue to hear criminal cases remotely.

Highlights

- ▶ Due to where people lived in California and uneven policy adoption, Black and Latino defendants had greater potential to experience pandemic court policies than defendants of other races.
- ▶ When remote hearing policies were in place, courts were less likely to convict defendants within six months of arrest than when policies were not in place—and sentencing patterns changed.
- ▶ For misdemeanor convictions, courts were less likely to sentence white, Black, and Latino defendants to jail under remote hearings and more likely to hand out probation or money sanctions, which include fines, victim restitution, and court costs.
- ▶ If policymakers continue remote hearings, six-month conviction rates may fall—with courts imposing sentences of probation over jail for misdemeanors, and jail over prison for felonies.

How did California criminal courts respond to COVID-19?

Arrests plummeted early in the pandemic, dropping 57 percent in April 2020 compared to 2018. Many California courts were shuttered and fewer cases were resolved through conviction, dismissal, or acquittal within six months. Later in 2020, arrests began to pick up, but criminal courts continued to resolve cases slowly in the face of budget cuts and public health orders that limited in-person proceedings.

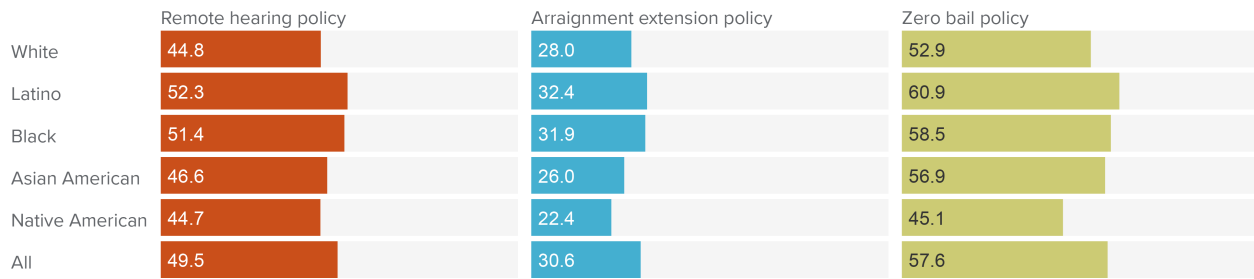
To protect public health, the state's 58 superior courts issued policies that changed how criminal cases were handled, including zero bail, case time extensions, and remote hearings. But no two courts adopted the same policies during the same times. Based on where they lived and when pandemic policies were in place, Latino and Black people were more likely than Asian Americans, Native Americans, and white individuals to be arrested under the various policies.

Law enforcement and criminal courts seemed to prioritize more serious crimes amid the pandemic—arresting and convicting fewer people for misdemeanors than felonies. In December 2020, felony resolutions were about half and misdemeanor resolutions were 70 percent lower than in 2018.

What impact did remote hearings have on criminal convictions and sentences?

When courts allowed remote hearings versus when they did not, conviction rates within six months of arrest fell. In general, people convicted of misdemeanors were more likely to receive probation or a fine than a jail sentence, while people convicted of felonies tended to land in jail rather than in prison.

The possibility of experiencing pandemic court policies differed by race in 2020



Source: Author illustration from 2020 DOJ ACHS and court policy data.

Note: Columns reflect share of arrests made in 2020 to which remote hearing, arraignment extension, and zero bail applied.

Remote hearings impacted some people more than others. Conviction rates fell for white, Black, and Latino defendants, whereas Asian Americans and Native Americans saw no significant change. After a misdemeanor conviction, only white, Black, and Latino defendants were less likely to go to jail (by about 2 percentage points). Furthermore, white people more commonly received both probation and fines, while Black defendants received fines and Latinos received probation. For felony convictions, only Black defendants were more likely to receive jail than prison sentences (by about 4 percentage points).

Whether county superior courts had adopted remote hearing policies also contributed to differences between white people and individuals of other races in convictions and sentencing—though not as much as specific characteristics of a case—especially for Black and Latino people.

Why does it matter that counties adopted policies at different times?

When or if counties adopted a pandemic policy determined who might experience that policy. Throughout California, Asian American, Black, and Latino people were more likely—and white and Native American people were less likely—to live in counties that adopted pandemic policies for criminal cases.

Whether a pandemic policy was in place in a county shaped how superior courts managed cases. During the pandemic, more than 50 percent of arrests involving Black and Latino people—but fewer than 50 percent of arrests involving people of all other races—occurred when remote hearing policies were in place.

From the start, Black and Latino people had greater potential to experience remote hearings than people of other races. Down the line, remote hearings impacted these defendants most—courts sentenced them with fines or probation rather than jail for misdemeanors, and sentenced Black people to jail rather than prison for felonies.

When do remote hearings matter most in criminal cases?

Most people accused of crimes make an initial court appearance to face charges at an arraignment hearing. The overwhelming majority of criminal cases then resolve through plea bargains, which typically involve sentencing agreements. Therefore, the question of whether remote hearings affect case outcomes becomes a question of whether remote arraignments affect case outcomes.

Future research can inform policy by focusing on this initial hearing to study the mechanisms that underlie any impact remote arraignments have on conviction and sentencing. For their part, criminal courts will need to collect information about which hearings are held remotely, which are not, and why.

Adapted by Stephanie Barton from [Pandemic Policymaking and Changed Outcomes in Criminal Courts](#) by Heather Harris.