



**DISTRICT OF COLUMBIA
COURT SERVICES AND OFFENDER SUPERVISION AGENCY &
PRETRIAL SERVICES AGENCY
RESEARCH REVIEW COMMITTEE**

MEMORANDUM

DATE: July 12, 2010
TO: Susan W. Shaffer
FROM: Claire Johnson Fay
RE: RRC Recommendation for Proposed Research

The Research Review Committee (RRC) has reviewed the research request submitted by The Urban Institute and summarized briefly below. The recommendation to SUPPORT the study reflects consensus among the RRC members. The full recommendation statement and proposal (minus the appendices) are attached.

This project aims to provide a baseline overview of pretrial detention in the District of Columbia to determine release detention rates, types of pretrial defendants, and the general impact of pretrial detention. It will use aggregate descriptive data and the request pertains only to PSA.

Please sign the recommendation statement to indicate your acceptance of this recommendation. As soon as I receive your reply, I will contact the researcher. If you have any questions or would like a copy of the complete review file, please let me know.

Thank you.

Enclosures: RRC10-06-Urban-KKim-Recommendation Statement-FINAL.doc
RRC 10-06-Researcher Proposal (without appendices)

Research Review Committee

Calvin C. Johnson, RRC Co-chair, Director of Research and Evaluation, CSOSA • **Claire Johnson Fay**, RRC Co-chair, Director of Justice and Community Relations, PSA • **Spurgeon Kennedy**, Director of Research, Analysis and Development, PSA • **Jerome Robinson**, Director, of Forensic Research, PSA • **Cynthia Tomkins**, Deputy General Counsel • **Clifford T. Keenan**, Acting Director of Operations, PSA • **Thomas H. Williams**, Associate Director of Community Supervision Services, CSOSA



DISTRICT OF COLUMBIA
COURT SERVICES AND OFFENDER SUPERVISION AGENCY &
PRETRIAL SERVICES AGENCY
RESEARCH REVIEW COMMITTEE

RECOMMENDATION STATEMENT

DATE: July 12, 2010

I. RESEARCH PROPOSAL SUMMARY

Principal Researcher: KiDeuk Kim, Principal Investigator, Urban Institute, with John Roman, Senior Technical Advisor, and Megan Denver, Co-Investigator, and Mitch Downey, Co-Investigator.

Title: Understanding the Impact of Different Pretrial Detention on Defendants and Its Implications for Evidence-Based Practice

Institution: The Urban Institute (UI), Washington, DC

Description: This project aims to provide a baseline overview of pretrial detention in the District of Columbia to determine release detention rates, types of pretrial defendants, and the general impact of pretrial detention. Ultimately, UI intends to use these findings to develop a quasi-experimental evaluation to assess the impact of pretrial detention and to identify for which pretrial detention works best.

This study pertains to PSA only.

Type of Data and Analysis: Researchers will use descriptive analysis to examine the characteristics of pretrial defendants and the use of pretrial detention and supervision.

Subjects: UI proposes to create analytic data files that include all defendants-papered cases processed by PSA from January 2006 through December 2009.

II. RECOMMENDATION

The RRC recommendation for this study:

Support

Support with Conditions

Do Not Support

The RRC considers the proposed study to be non-agency research as defined in Research and Evaluation Policy Statement 1201. The RRC recommends support of this request as described in the researcher's proposal.

**CSOSA/PSA RESEARCH REVIEW COMMITTEE
REVIEW RECOMMENDATION STATEMENT**

III. SUPPORTING INFORMATION

Regulatory:

- The proposed research shows no evidence of non-compliance with Agency policies pertaining to research.

Other Considerations:

The proposed research requires non-identifiable data that already has been approved through the RRC for use in a previous study, RRC 10 10-01-PSA-SKennedy-Risk Assessment and Validation. Providing a new data file would require minimal staff resources since the data extraction program already has been created for the previous study. The researchers prefer a new data file; however, the file provided by PSA for the previous study also could be used for the purposes of the current study request.

Benefits to Agency:

The proposed research is consistent with Agency priorities and/or interests as follows:

- Study findings will expand on the understanding of pretrial detention for defendants in the District of Columbia; help to facilitate informative discussions among policymakers, practitioners, and researchers; and provide policy-oriented, evidence-based insights into pretrial services in the District, the findings also will offer a basis for further refinement of research questions and analyses in the subsequent stage of this study.

Related Issues or Concerns:

- None

I ACCEPT the RRC Recommendation	I DO NOT ACCEPT the RRC Recommendation
	
Susan W. Shaffer, Director, DC Pretrial Services Agency	
Comments:	

**REQUEST FOR APPROVAL OF NON-AGENCY PROJECT
INVOLVING HUMAN SUBJECTS:**

**UNDERSTANDING THE IMPACT OF PRETRIAL
DETENTION ON DEFENDANTS AND ITS
IMPLICATIONS FOR EVIDENCE-BASED PRACTICE**

Submitted to: Research Review Committee,
D.C. Pretrial Services Agency

Submitted by: The Urban Institute

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To: Research Review Committee, DC Pretrial Services Agency
Cc: Spurgeon Kennedy
Date: May 17, 2010
Re: Request for approval of non-agency research project involving human subjects

The Urban Institute was recently awarded a contract under the District of Columbia Crime Policy Institute, a new initiative by the D.C. Executive Office of the Mayor (EOM) to join policy and research to address priority issues affecting the District. The scope of work for this project includes understanding the effect of pre-trial detention on the detainee and the community and determining the types of individuals for whom detention would be best from a social harm perspective. In addition to the benefits received by the District, this work intends to enhance the Pretrial Services Agency's interests in community safety and further knowledge of the impact of the pretrial process. This memorandum serves as a request for the Agency's Research Review Committee to review and approve our research proposal.

We are submitting, for the RRC review, all required materials in this document. We established our research design and procedures in compliance with federal regulations regarding the protection of human subjects. Our research design as described herein has been approved by the Urban Institute's Institutional Review Board (IRB) for full implementation. Should you have any questions or need additional information, please do not hesitate to contact me through any means listed above.

Thank you for your consideration and assistance.

Encl.

1. Summary Statement of Research Project
2. Detailed Statement of Research Project
3. Appendices

Summary Statement of Research Project

- a. **Names:**
KiDeuk Kim, Principal Investigator, Urban Institute
John Roman, Senior Technical Advisor, Urban Institute
Megan Denver, Co-Investigator, Urban Institute
Mitch Downey, Co-Investigator, Urban Institute
- b. **Title of study:** Understanding the impact of different pretrial detention on defendants and its implications for evidence-based practice
- c. **Purpose of the project:** This project aims to provide a baseline overview of pretrial detention in the District of Columbia to determine release detention rates, types of pretrial defendants, and the general impact of pretrial detention. Those examinations will also enhance our understanding of pretrial services for a later phase of the research project.
- d. **Location of the project:** The Urban Institute, 2100 M Street NW. Washington, DC 20037
- e. **Duration of the study:** 5/15/2010 - 9/30/2010
- f. **Research methods to be employed:** The project will be threefold. First, the research team will review relevant literature and current approaches in pretrial detention, to derive a comparative understanding of pretrial practices and outcomes in DC. Second, the project will conduct a descriptive analysis to examine the characteristics of pretrial defendants and the use of pretrial detention and supervision. Third, the research team will then develop a quasi-experimental evaluation to assess the impact of pretrial detention and to identify for whom pretrial detention works best. Hazard models and trend analysis will be used to examine post-release outcomes of sub-groups in the various detention regimes.
- g. **Sample type and size requested and time frame for sampling collection:** We propose to create analytic data files that include all defendants-papered cases processed by PSA from 01/2006 to 12/2009.
- h. **Description of the support needs from staff:** There is one major area in which PSA staff support and resources are needed: assistance with data extraction from PRISM. Since this process is currently underway for project PSA-90-PMD1 (including technical support for understanding the structure and contents of PRISM), minimum support outside of the data extraction for the new timeframe is expected.
- i. **Indication of risk or discomfort to subjects as a result of participation:** Under no circumstances will communication or interpersonal contact between the project staff and study subjects (pretrial defendants) be required for this study. Only administrative records of pretrial defendants will be analyzed for the project and therefore we expect no discomfort to study subjects. Further, all individual identifiers will be removed from data files to be

developed for this project. There is minimal or no risk that can be anticipated for study subjects in this project.

- j. **Anticipated results:** This project is expected to yield a fundamental understanding of pretrial defendants and pretrial detention in DC, which is critical to inform a later phase of this project evaluating the impact of the Public Safety and Justice Omnibus Act of 2009, whereby the use of pre-trial detention is expanded to offenders charged with other serious crimes.
- k. **List of deliverables:** The project team will have one main deliverable, the final report, for DCPI. This report will describe analytic procedures, findings and discussions, and policy recommendations. There will also be a policy brief and presentations made to DCPI. The project team will share all reports and findings with PSA staff, and can deliver project presentations to selected PSA audiences as requested by PSA staff.

	Month	3	4	5	6	7	8	9
1. Project Development and Preparation								
1.1. Develop the scope of work		■	■					
1.2. Review background and literature		■	■					
1.3. Submit IRB request			■	■				
2. Data Acquisition								
2.1. Prepare research proposals for external reviewers				■	■			
2.2. Establish protocols for data sharing and processing				■	■			
2.3. Coordinate data acquisition					■			
3. Data Analysis								
3.1. Construct criminal history files					■	■		
3.2. Conduct trend and profile analysis on pretrial defendants						■	■	
3.3. Develop outcome analysis on pretrial detention						■	■	
4. Dissemination								
4.1. Prepare deliverables						■	■	
4.2. Present findings								■

Detailed Statement of Research Project

a. Review of Prior Research

Pretrial detention balances two primary goals: protecting the community from defendants who are considered dangerous and ensuring defendants appear in court. Although this policy has existed for decades, there have been ongoing controversies surrounding the presumption of innocence and protection of rights for this pretrial population. Of notable interest is the impact of pretrial detention on the defendant, the criminal justice system, and the defendant's community. This section reviews the previous pretrial detention literature and suggests areas for expansion.

Background of the Legislation

In an attempt to reduce crime, detaining pretrial defendants was first considered by Congress in 1969 (Committee on the District of Columbia 1970). An amendment was subsequently added to the Bail Reform Act of 1966 to incorporate "...legislative authorization to consider danger to the community in setting nonfinancial pretrial release conditions, to detain certain defendants found to be dangerous, to revoke the release of those defendants who violate release conditions and to punish those who commit crimes while released on bail with added penalties¹." The District of Columbia passed a law² modeled after the American Bar Association's draft version of guidelines for pretrial detention, and D.C. was the first jurisdiction to enable detention for potential danger to the community (Goldkamp 1985).

The Role of Pretrial Services Agencies

As detention rates grew after the legislation passed, the Pretrial Services Act of 1982 established pretrial services agencies to address the high rates of detention (and the problem of unnecessary detention) while balancing community safety, court appearance, and the presumption of innocence for defendants (Cadigan 2007). Pretrial Services Agencies (PSAs) provide a critical role in the court process, and the recommendations provided to judges strongly influence the pretrial detention hearing and the judge's ultimate decision³ (Clark & Henry 2003; Klein 1997).

Controversies and Debates

Despite the criticality of PSAs in the court process, pretrial detention has been controversial for a few reasons. Legal scholars, academics, and practitioners have debated constitutional issues surrounding the 8th Amendment (denial of bail), the presumption of innocence, and the 5th Amendment (due process), with much of this research conducted directly after the enactment of the Pretrial Services Act in the 1980s. Unnecessary detention (often influenced

¹ See 115 CONG. REC.S 7908-09 for the proposed bill and 18 U.S.C. § 3142 (1994) for the current U.S. Code.

² See D.C. Code: 23-1321, 1322(a).

³ In a sample of 137 pretrial programs in 2001 (a 63% response rate), almost half (46%) reported that their agency provides recommendations to judges about pretrial detention (Clark & Henry 2003).

by inefficiency, an overemphasis of the defendant's charge(s), utilizing detention as the primary solution with a lack of alternatives to detention, and/or lack of oversight for those individuals who are detained) reemerged as a major concern in the mid-1990s (Marsh 2001) and has raised national and international public health concerns in recent years (Byrne 2009; Open Society Justice Initiative 2010). In addition, pretrial detention has not always been consistently applied by judges in practice⁴ (Ward and Wright 1999), making comparative studies and policy recommendations across jurisdictions difficult.

The Impact of Pretrial Detention

These issues are all noteworthy because PSAs generally and pretrial detention specifically have the potential to significantly impact the defendant, the criminal justice system, and the community. At the individual level, there is an increased likelihood of guilty outcomes and more serious charges in court for those who were detained pretrial⁵ (Demuth 2003; Goldkamp 1983; Klein 1997; Spohn 2000; Williams 2003). Pretrial supervision (instead of detention) offers advantages such as keeping the defendant in the community, allowing for increased contact with family, and continued employment (Tanner, Wyatt, & Yearwood 2008). When considering the criminal justice system, pretrial detention impacts overcrowding in correctional facilities and reduced access between defense attorneys and their clients (Klein 1997). Detention also increases resource demands on the courtroom and pretrial services, leading to higher overall criminal justice costs (Klein 1997; Tanner, Wyatt, & Yearwood 2008).

Finally, although judges reportedly have split opinions on the importance of community safety when determining whether a defendant should have a pretrial detention hearing (Ward and Wright 1999), whether crime is reduced and safety is increased is a third major potential impact. Bak (2002) made a comparison of two pretrial groups: defendants the U.S. Attorney made a motion to detain but were released by the court, and those defendants who never received a detention request from the U.S. Attorney. He found that although the defendants with a motion request likely had stricter release conditions, they had significantly higher rates of pretrial violations than defendants without motions when controlling for age, education level, marriage status, prior felony arrests, and residency type. Bak (2002) also noted that official arrest statistics for both groups are typically low (1%), and although many of the types of violations committed are technical violations, other considerations such as drug use, serious criminal activities, and unreported crime all have the potential to negatively impact a defendant's family, social support networks, and the broader community. Therefore, just as a defendant's legal rights must be balanced with overall community safety in pretrial services, the negative impacts of pretrial detention on the individual defendant and criminal justice

⁴ See Ward and Wright (1999) for a discussion of varying judicial interpretations of the law and Demuth (2003) and Demuth and Steffensmeier (2004) for a review of racial and ethnic sentencing disparities for pretrial detention.

⁵ As Klein [1997] pointed out, although it is possible that those who receive pretrial detention by judges happen to be those who would be found guilty in court, juror bias towards those previously detained is a likely reason for this correlation.

system must be considered along with the positive potential effects of reducing crime, increasing safety, and reducing personal or economic losses to victims⁶.

The implications of pretrial detention and PSA practices are significant. While prior research has documented the controversies and biases for both the theoretical and actual use of pretrial detention, with the exception of sentencing decisions, little is known about the impacts of detention itself. The current work will contribute to the discussions and debates surrounding pretrial detention through a comparative study of pretrial detention periods to determine whether defendants who are detained for longer periods of time have different outcomes than other defendants.

b. Research Method

Data and Measures

The project will first identify all defendants-papered cases processed by PSA from 01/2006 to 12/2009. There are four main domains from which to develop measures: (1) demographics and socioeconomic characteristics of defendants, (2) criminal histories of defendants including concurrent offense information, (3) pretrial detention status and release conditions, and (4) post-release outcomes such as re-arrest.

Specifically, the research team will explore the following tables from PRISM to construct those measures necessary for this project:

ClientDocket	diArrest
ClientEducationSummary	diCriminalSummary
ClientEmployment	diCriminalDetail
ClientMaritalStatus	
ClientReleaseOrder	ReleaseProgram
	ReleaseReason
lnkReleaseTypeReleaseProgram	ReleaseCondition
Lockup	RiskAssessment
luCharge	raReleaseCondition
luReleaseType	
luReleaseProgram	ProgramDef
luSupervisionLevel	
luSupervisionType	
luRiskCategory	

D.C. Code § 23-1322, which governs pretrial detention, stipulates that the court shall order the detention of a person charged with certain offenses or in conjunction with certain conditions for a period of no more than five days, excluding weekends and holidays. Pretrial detention in practice can last 1-2 weeks or longer and those released pretrial are placed under

⁶ As an example, the National Crime Victimization Survey estimated that direct economic losses to victims of crime in 2008 totaled almost 17.4 billion dollars (Rand 2009).

supervision by PSA. The research team will identify meaningful sub-groups of pretrial defendants by the length of pretrial detention administered. Then, an indicator of re-arrest or con-compliant activity in the pretrial period will be examined by different sub-groups while controlling for their demographics, characteristics, and other covariates.

Analytic Strategies

The research team will conduct a series of descriptive analyses to understand the characteristics of pretrial defendants and the use of pretrial detention in D.C. This exploratory effort is essential to the outcome analysis evaluating the impact of different pretrial detention regimes as well as the later phase of this study yet to be implemented.⁷

The outcome analysis focuses on how different pretrial detention conditions explain re-arrest. Because the assignment of pretrial defendants to a different detention option is not random, individual characteristics that determine the level of pretrial treatment (i.e., the severity of concurrent offense) should be accounted for in this analysis.

After identifying a sub-group of interest, the research team will develop a comparison group whose post-release outcomes are to be juxtaposed with those of the sub-group. By balancing individual characteristics between the sub-group and comparison group on observables, we expect to achieve an unbiased estimate for the impact of different pretrial detention regimes, assuming the absence of unobserved variables separating one group from the other. Depending on the suitability of matched-case analysis, the research team will also consider calculating the conditional probability of receiving one type of detention versus business-as-usual and developing inverse probability weights to be included in a regression model estimating the impact of different detention options or levels on post-release outcomes.

c. Significance of anticipated results

This project aims to develop a fundamental understanding of pretrial detention for D.C. defendants. The current practice of pretrial detention will be described by different release types, supervision types and the characteristics of defendants. Such findings are expected to facilitate informative discussions among policymakers, practitioners, and researchers. Further, the research team will examine the general impact of pretrial detention through a quasi-experimental evaluation. Not only will these efforts provide policy-oriented, evidence-based insights into pretrial services in D.C., but they will also offer a basis for further refinement of research questions and analyses in a subsequent stage of this study.

d. Benefits of research and/or participation to PSA

The District of Columbia Crime Policy Institute and the D.C. Executive Office of the Mayor are working closely to identify critical areas of inquiry to develop evidence-based policies and

⁷ In consultation with the DC Mayor's Office and PSA, the research team will formulate research questions to be examined during the next fiscal year. Some of the tentative research topics include an evaluation of the Omnibus Act of 2009 and a cost-effectiveness analysis on different pretrial detention regimes.

practices in criminal justice for D.C. As pretrial detention is a critical element of the criminal justice system, this project will offer valuable opportunities for PSA to learn about the implications of D.C. pretrial detention and partake in policy-oriented discussions.

e. Specific resources required from the Agency

The proposed Principal Investigator, KiDeuk Kim, and Co-Investigator, Megan Denver, are currently working on a separate PSA-funded project to develop and validate a risk assessment tool (PSA-90-PMD1). As PSA is currently working closely with the proposed key staff of this project, our efforts will be synergistic in that this project can benefit from the prior knowledge and experience of the key staff. The research team will require administrative data maintained in PRISM for the proposed analyses. Nonetheless, we expect very little support or resources to be requested of PSA for this project.

f. Description of all possible risks, discomforts, and benefits to individual subjects

Since this project will analyze administrative records of pretrial defendants based entirely on retrospective data (and there will not be direct involvement of those defendants in the study), there will not be any communication or interpersonal contact between the project staff and study subjects and no basis to suspect discomforts or benefits to individual subjects whose administrative records are to be analyzed for this study.

As previously arranged in a prior study, PSA will sanitize data before handing them over to the Urban Institute for use. All individual identifiers will be removed from data files. There is minimal or no risk that can be anticipated for study subjects in this project.

g. Description of steps taken to minimize any potential risks or discomforts

This project relies on retrospective data that have already been collected as part of PSA routine operations. Under no circumstances will we have the ability or intention to identify study subjects whose administrative records are to be analyzed for this study. Their participation in this project is unconscious and non-experiential. There is no basis to suspect discomforts to study subjects in this project, and hence no specific procedures deemed required.

h. Description of physical and/or administrative procedures to be followed to (1) ensure the security of any individually identifiable data that are being collected for the project; and (2) destroy research records or remove individual identifiers from those records when research has been completed:

There will be no individually identifiable information needed or developed for this project. All data files will be sanitized by PSA staff before release to project staff. Therefore, no specific procedures will be required to ensure the security of individual identity or destroy such information. For the duration of project period, we will adhere to general protocols, as guided by the Urban Institute Policy and Procedures, which prescribe ethical responsibilities in the performance of research involving human subjects.

i. Description of any anticipated effects of the research project on Agency programs and operations

The analyses currently proposed herein will focus on the general impact of pretrial detention. It is anticipated that the empirical findings from this study will contribute to a broader policy discussion of the legal standards that guide PSA policies and operations, and PSA will be an important part of such discussions. More specifically, in the later phase of the study, we intend to, among other topics, examine the impact of the Omnibus Act of 2009. There are possibilities that such analyses can be particularly germane to PSA's daily operations.

j. Relevant research materials such as vitae, endorsement, descriptions of similar work undertaken, sample informed consent statements, questionnaires, and interview schedules

Appendix 1 includes biographical information about project staff as listed below:

KiDeuk Kim, Principal Investigator, Urban Institute
John Roman, Senior Technical Advisor, Urban Institute
Megan Denver, Co-Investigator, Urban Institute
Mitch Downey, Co-Investigator, Urban Institute

Appendix 2 offers a description of selected relevant work undertaken.

There is no primary data collection involved in this project. No interpersonal communication or contact between study subjects and project staff will be necessary or planned for this project. Therefore, interview schedules, questionnaires, or informed consent forms are not applicable.

k. Statement indicating that copies of all deliverables will be provided to CSOSA/PSA

The Urban Institute will provide copies of all deliverables to CSOSA/PSA.

(1) Statement that copies of any datasets will be provided to CSOSA/PSA at the conclusion of the project

Any datasets will be provided to CSOSA/PSA at the conclusion of the project.

(2) Employee and non-employee researchers (for non-Agency and Agency research involving human subjects) must also provide verification that the proposed research has been approved by an independent Institutional Review Board, including:

Appendix 3 provides (1) copy of certification statement from IRB and (2) copy of application for review to IRB.

References

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