

**David Mitcham**  
First Assistant/Chief of Courts

**Vivian King**  
First Assistant/Chief of Staff



**Harris County District Attorney's Office**  
500 Jefferson Street, Suite 600  
Houston, TX 77002

**HARRIS COUNTY DISTRICT ATTORNEY**  
**KIM OGG**

# **Bail, Crime & Public Safety**



A report by the Harris County District Attorney's Office  
to the Harris County Commissioners Court

September 2, 2021

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Honorable Harris County Judge Lina Hidalgo  
Honorable Rodney Ellis, Harris County Commissioner Pct. 1  
Honorable Adrian Garcia, Harris County Commissioner Pct. 2  
Honorable Tom Ramsey, Harris County Commissioner Pct. 3  
Honorable Jack Cagle, Harris County Commissioner Pct. 4  
1001 Preston Street, Suite 938  
Houston, Texas 77002

Dear Judge Hidalgo and Harris County Commissioners,

Enclosed please find a report from the Harris County District Attorney's Office, "Bail, Crime & Public Safety." Our intent in gathering, analyzing, and reporting our findings, is to provide county leadership and the public at large with a thorough, transparent assessment of the impact of current bail decisions by the courts on public safety.

Commissioners have all previously received reports from the O'Donnell bail monitors in September 2020 and March 2021, as well as a memorandum from the Harris County Justice Administration Department, in February, 2021.

Because these previous reports reflect results which conflict with the daily experiences of prosecutors, police, and crime victims, the District Attorney's Office took another look at the same information and data used by the previous analysts, and produced the attached report.

Given the efforts underway to formally expand "bail reform" to felony offenses, via *Russell v. Harris County*, a lawsuit currently pending in federal court, it is important for the public and all stakeholders to know the facts from all perspectives, including that of the District Attorney's Office.

In reporting the results of our analysis, it is important to reaffirm the District Attorney's Office's position, that no person should be held in jail just because they are poor and public safety should always be properly considered, before anyone is released on bond.

This report contains conclusions based upon the same evidence and data utilized by the said previous analysts in their reports to Commissioners Court. However, as shown in this report, the data prove that “bail reform,” as presently implemented in some Harris County’s courts, has led to declining community safety as well as a disintegration of the purpose of bail itself.

Our findings show:

Re-offending by criminal defendants who have been released on bail is up.

Bond failures by criminal defendants are up.

Violent offenses committed by defendants free on bail is up.

“Bail reform” has not been confined to misdemeanors, but has been implemented, in practice, for felony defendants at every level, even repeat violent offenders charged with some of Harris County’s most notorious and deadly crimes, including, but not limited to murders and capital murders.

Charts and graphs accompanying this letter show the dramatic increase, from 2015 to 2021, in offenses committed by criminal defendants while free on bail along with a projection for the remainder of the year.

More importantly, the difference between this report and those previously submitted to Commissioners Court, is that large numbers of extraneous cases were included in prior analyses. For example, by including in their analysis extraneous categories of defendants, such as those who were not arrested for the pending charge; those who were arrested, bonded out, and then failed to properly appear in court; and those defendants who were arrested but remained in jail because they did not bail out, skewed the results of these previous reports.

This report excludes those extraneous categories from analysis, and looks at defendants on bond who were subsequently charged with additional offenses.

While reasonable minds may differ as to the intent of “bail reform” as implemented in Harris County, and with due respect for the work of previous researchers, the public, the stakeholders and this Commissioner’s Court, deserve a fuller understanding of the dire circumstances of the present situation.

This report confirms the experiences of prosecutors, police and crime victims. “Bail reform,” as presently practiced in some Harris County courts, will continue to be a driving factor in the crime crisis gripping our community.

I would welcome the opportunity to discuss this issue with any member of this honorable court.

Sincerely,

A handwritten signature in blue ink, appearing to read "Kim Ogg". The signature is fluid and cursive, with the first name "Kim" and last name "Ogg" clearly distinguishable.

Kim Ogg  
District Attorney

## Recent Statistical History of Defendants Charged With a New Crime While Out on Bond For a Previously Charged Pending Criminal Offense

The charts below detail the number of Defendants charged with a new criminal offense while on bond, either misdemeanor or felony or both, during the years 2015 – 2021, including the actual number of such reoffending Defendants, to date in 2021, as well as a statistical projection to the end of the year. (Note: If a Defendant charged with a new case, has at least one pending bonded case of both a misdemeanor and a felony then that new case is counted in both the felony and misdemeanor charts. Whereas, in the chart showing a new case against a Defendant on either bond, misdemeanor or felony, then this new case is only counted once in the chart below.)

Defendants on Misdemeanor Bond  
at the Time of the Filing  
of a New Criminal Case

Year	On Misdemeanor Bond
2015	3,212
2016	3,599
2017	4,124
2018	5,639
2019	7,664
2020	10,555
2021 Actual #s	6,953
2021 Projected	12,912
2021 Daily Avg.	35.47

Defendants on Felony Bond  
at the Time of the Filing  
of a New Criminal Case

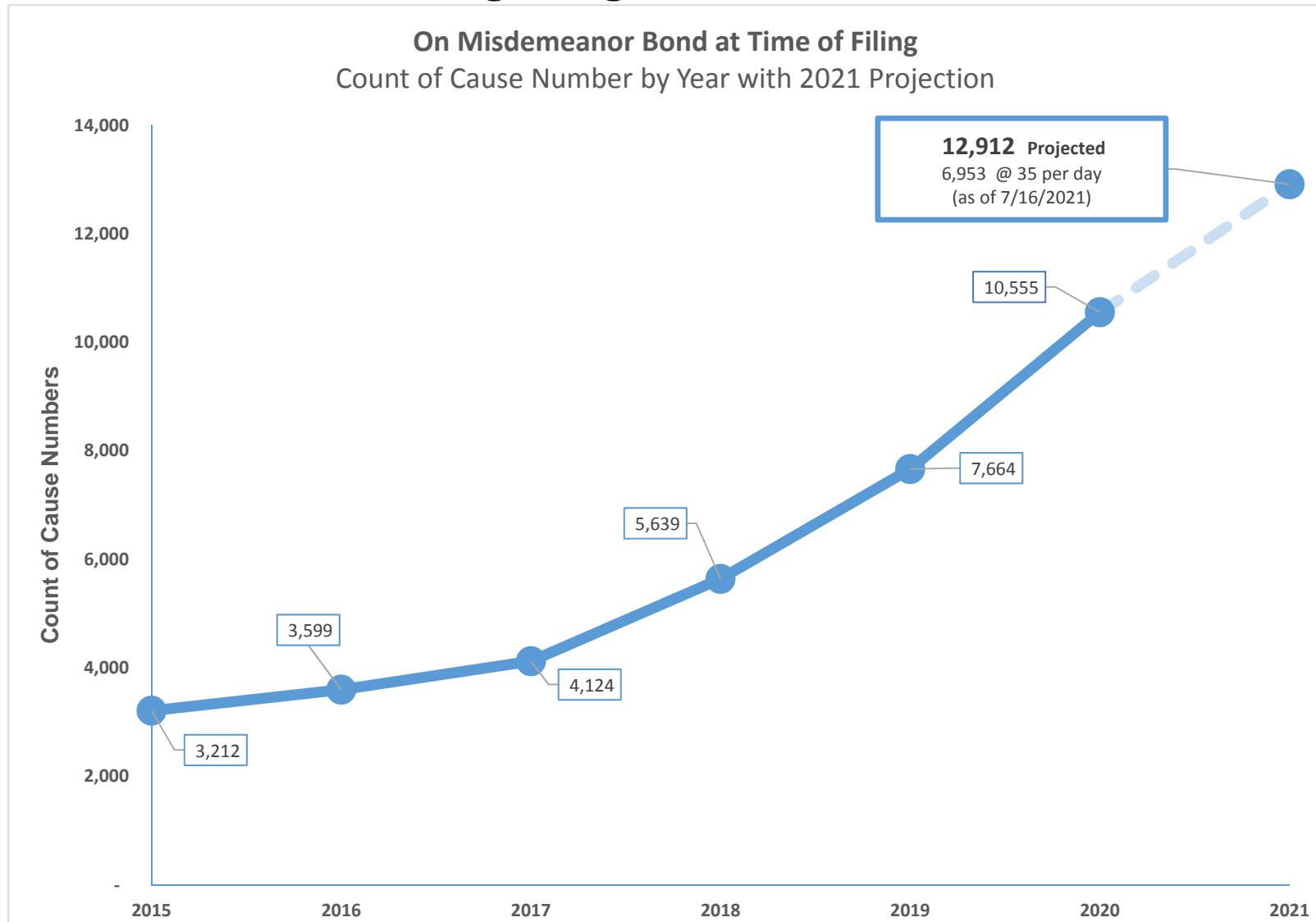
Year	On Felony Bond
2015	3,538
2016	4,365
2017	4,236
2018	4,898
2019	6,969
2020	11,448
2021 Actual #s	8,377
2021 Projected	15,557
2021 Daily Avg.	42.74

Defendants on Either Type of Bond  
at the Time of the Filing  
of a New Criminal Case

Year	On Any Bond
2015	6,344
2016	7,444
2017	7,776
2018	9,813
2019	13,160
2020	18,820
2021 Actual #s	12,794
2021 Projected	23,760
2021 Daily Avg.	65.28

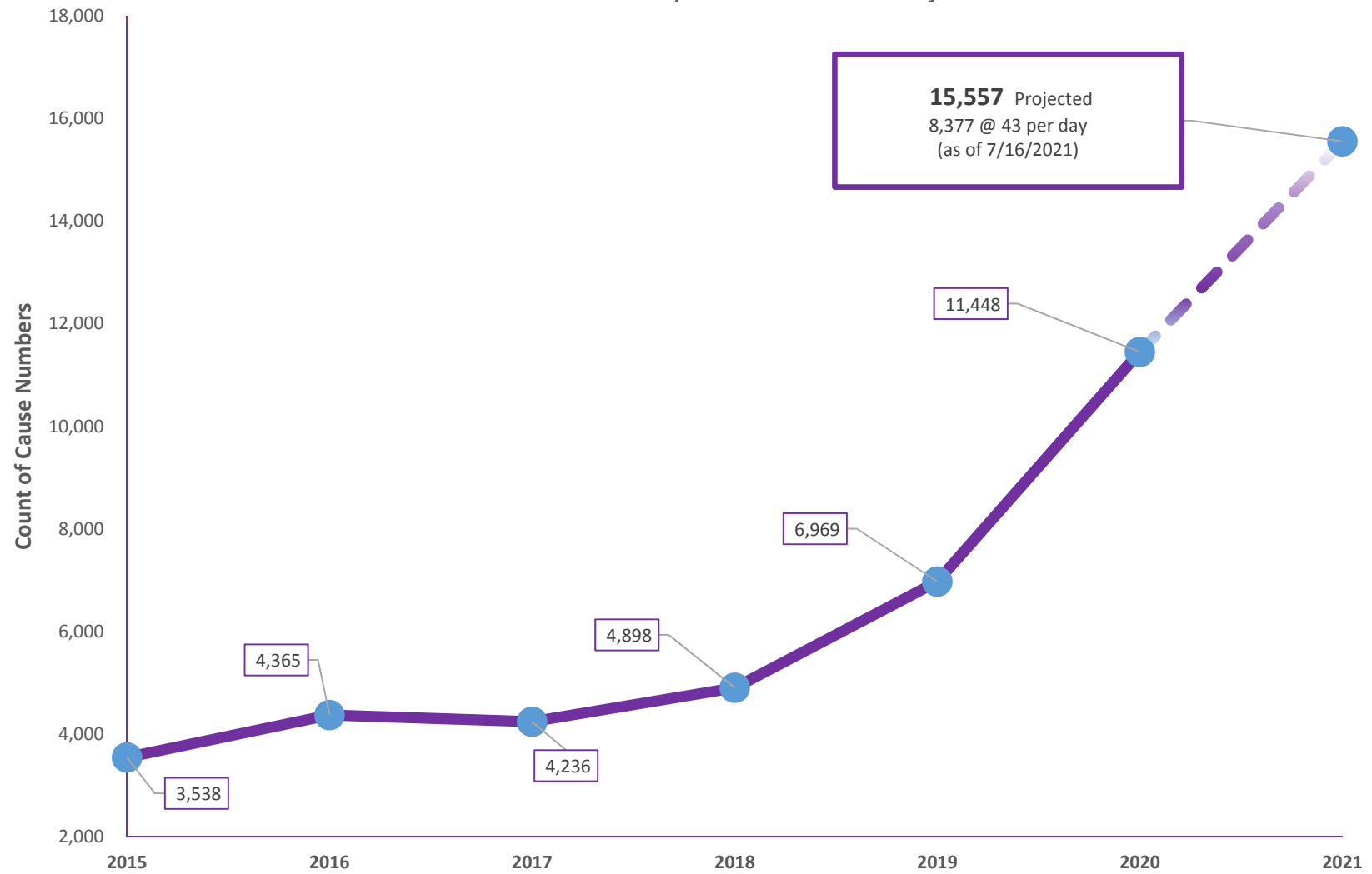
The following three graphs illustrate this numerical increase of Criminal Defendants reoffending while on bond from 2015 to the projected end of 2021.

# Total New Charges Against Defendants on Bond

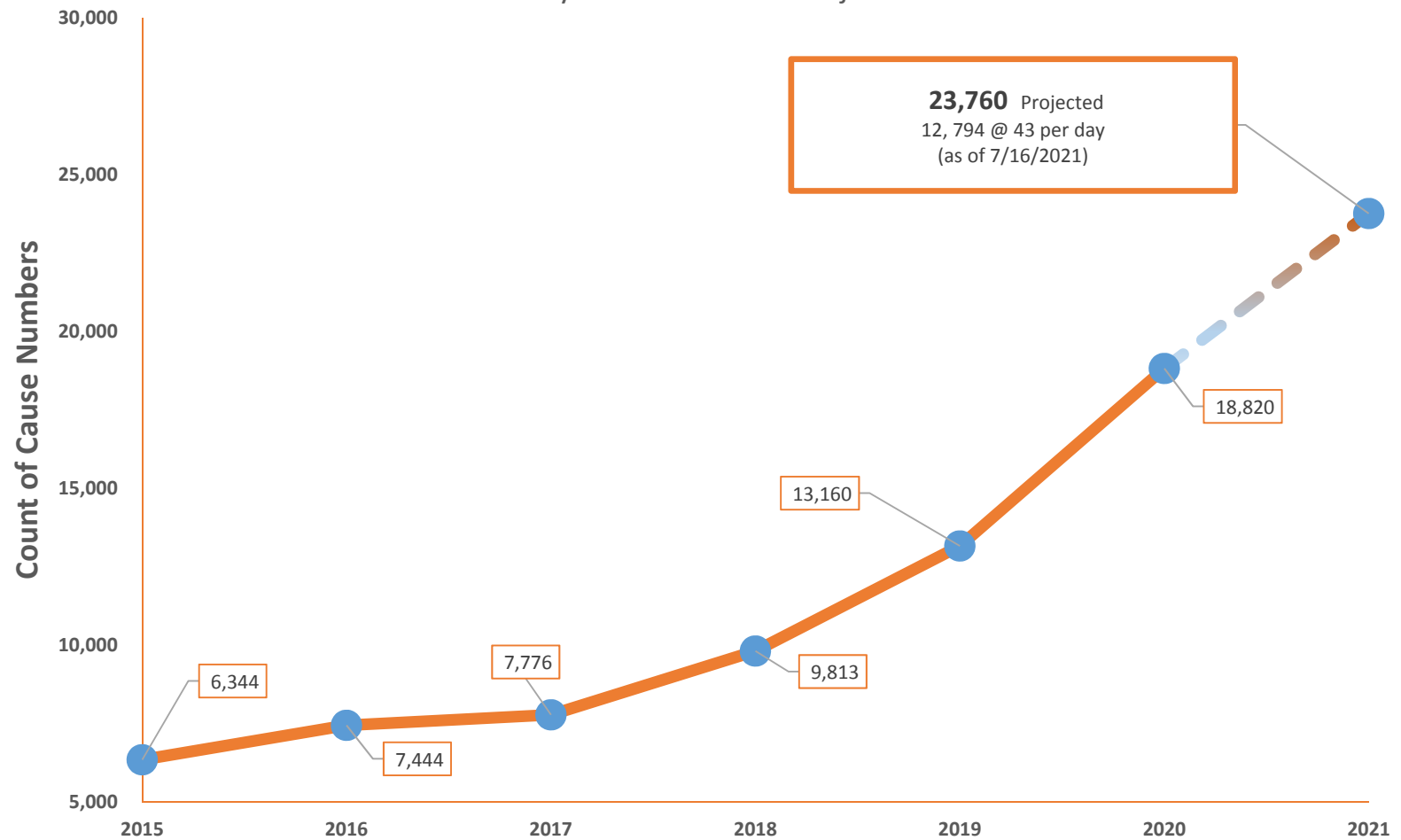


# On Felony Bond at Time of Filing

## Count of Cause Number by Year with 2021 Projection



**On Any Bond at Time of Filing**  
Count of Cause Number by Year with 2021 Projection





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# Introduction

Bail reform in Harris County refers to several policy changes adopted between 2017 and 2019 relating to misdemeanor bail practices. In particular, secured money bonds are no longer required, or are greatly reduced for most misdemeanor cases. Most defendants are released promptly after arrest.

The increase in crime – especially rising homicide rates – in the aftermath of bail reform has led to public calls for explanations. Two main sources of analysis have concluded that bail reform has not been responsible for rising crime rates:

- **ODonnell monitor team:** This team of analysts released two reports examining the implementation and outcomes of the 2017-2019 bail reform in Harris County.<sup>1</sup> These reports concluded that reoffending rates for misdemeanors have not increased or even slightly declined after the implementation of bail reform.
- **Justice Administration Department (JAD):** In February 2021, JAD released a memo analyzing crime trends in Houston and Harris County in the context of bail reform. This memo concluded there is no evidence that increases in violent crime can be traced to bail reform. It also notes that several types of violent crimes have gone up in other jurisdictions and rising crime trends in Harris County are merely consistent with nationwide patterns.

Both the ODonnell monitor team and JAD analysts stress that the only significant changes to bail proceedings in Harris County have been limited to misdemeanors. Because of this limited policy scope, the implicit argument is that there cannot be any effect on violent crimes or other felonies.

This report is another look at the same datasets, code files, methodology, and analytical results from the JAD memo and monitor reports. We requested and received datasets for crime, unemployment, and pandemic data and the code files for analyzing these datasets from JAD analysts. These files allowed us to replicate the results reported in the JAD memo and perform additional analyses on those results. We also conducted follow-on analyses of the results reported in the JAD memo and monitor reports.

The results of this secondary analysis revealed that, contrary to the narrative described in the JAD memo and monitor reports, bail reform has led to declining community

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<sup>1</sup> The first monitor report was released on September 3, 2020 and is available at <https://sites.law.duke.edu/wp-content/uploads/sites/26/2020/09/ODonnell-Monitor-Report-Six-Months-Final-2.pdf>. The second monitor report was released on March 3, 2021 and is available at <https://sites.law.duke.edu/odonnellmonitor/wp-content/uploads/sites/26/2021/03/ODonnell-Monitor-Second-Report-v.-32.pdf>.

safety as well as a disintegration of the purpose of bail itself. The ODonnell monitor team says of bail reform:

This system is intended to restore the public's trust, safeguard constitutional rights, and accomplish the aims of bail: to maximize pretrial release while keeping the community safe and promoting the integrity of the judicial proceedings by preventing defendants from fleeing justice. (Second monitor report, page 4)

While bail reform has indeed increased pretrial release, there is much evidence that community safety has declined while defendants released on personal recognizance have increasingly failed to appear in court.

Contrary to the sanguine picture of the effects of bail reform in Harris County, bail reform is associated with more crime, higher criminal recidivism rates, and more bond failures. While bail reform has been formally limited to misdemeanor cases, an analysis of bonds for felony cases shows that key aspects of misdemeanor bail reform – namely, lower bond amounts and increased use of personal bonds – have also carried over to felony cases as well.

## Summary of Findings

### Recidivism is Up

- The ODonnell monitor reports do not distinguish between re-offenses that involved defendants who were on bond and defendants who were not on bond. After excluding initial misdemeanor cases that do not involve any kind of bond, offender-level recidivism rates have increased.
  - For 365-day recidivism, the annual recidivism rate has increased from 17-21% before bail reform to 20-23% after bail reform.
  - For 180-day recidivism, the annual recidivism rate has increased from 11-13% before bail reform to 14-16% after bail reform.
  - For 90-day recidivism, the annual recidivism rate has increased from 7-8% before bail reform to 8-11% after bail reform.
- Because there are so many more misdemeanor defendants out on bond, these few percentage point increases in recidivism rate mean that the actual number of recidivists have doubled after bail reform:
  - The number of defendants who re-offended within 365 days rose from 3,438 in 2015 to 6,692 in 2019. This is a 95% increase.
  - The number of defendants who re-offended within 180 days rose from 2,165 in 2015 to 4,743 in 2019. This is a 119% increase.
  - The number of defendants who re-offended within 90 days rose from 1,315 in 2015 to 3,149 in 2019. This is a 139% increase.

- Not only are there more recidivists, they are also re-offending faster after bail reform. Comparing 2015 with 2019, 365-day recidivists are taking 21 fewer days to re-offend, 180-day recidivists are taking 7 fewer days to re-offend, and 90-day recidivists are taking 4 fewer days to re-offend.
- Bail reform has greatly expanded the use of personal bonds. Unfortunately, the recidivism rates for personal bonds – which are higher compared to other bonds – have risen substantially.
  - For 365-day recidivism, the annual recidivism rate for personal bonds has increased from 16-18% before bail reform to 21-26% after bail reform.
  - For 180-day recidivism, the annual recidivism rate for personal bonds has increased from 10-11% before bail reform to 15-19% after bail reform.
  - For 90-day recidivism, the annual recidivism rate for personal bonds has increased from 6% before bail reform to 8-13% after bail reform.
- Because of the expanded use of personal bonds, the actual number of misdemeanor defendants who re-offend has increased *13 times* for 365-day recidivism, *15 times* for 180-day recidivism, and *18 times* for 90-day recidivism when comparing 2015 with 2019 numbers.
- Recidivism rates for defendants with cash and surety bonds have also risen after bail reform, especially after the adoption of amended Rule 9, which lowered the cost of cash and surety bonds.

## Bond Failures are Up

- Bail reform has increased the prevalence of pretrial release as well as the number of personal bonds relative to secured bonds. These changes correspond with a 50% increase in the overall bond failure rate.
- The actual number of defendants who failed bond in 2019 is 2.7 times what it was in 2015 for other personal bonds.
- The ODonnell monitor team has noted several issues with bond failure data, which are largely based on the discretion of individual judges. Upon closer examination, these data issues suggest that the underlying reality of bond failures is even worse than the numbers indicate.

## Violent Crime is Up

- Regardless of whether each specific crime type was previously increasing, decreasing, or holding steady, every violent crime in Houston shows an increase in monthly offenses within 1-5 months of February 2019, which is when amended Rule 9 was adopted. For all but one type of violent crime, this increase became part of an upward trend or new steady state.
- Increases in monthly homicides in Houston began before the 2020 pandemic.
- According to the JAD memo, other comparable jurisdictions – namely, Chicago, Los Angeles, and Dallas – have also experienced rising violent crime during the

same 2015-2020 period. These conclusions are not entirely supported by the JAD's own data analysis and data sources. Crime trends for Dallas do not include enough data before 2017. Also, Dallas has attempted some criminal justice reforms during the same time period. Los Angeles and Chicago crime trends do not align with Harris County bail reform events or with Houston crime trends.

- Houston and the other considered cities all experienced rises in homicides (with the exception of Los Angeles, which had no homicide data) and in aggravated assaults during the pandemic, which is evidence that the pandemic – which all cities experienced – played a big role in those increases. However, crime trends for all cities were very different before 2020, and only Houston shows a consistent uptick in crime during bail reform.

### Bail Reform Has Not Been Confined to Misdemeanors

- While changes under bail reform may have been formally limited to misdemeanor defendants, in practice, felony defendants have also experienced the same outcomes of lower bond amounts and greater use of personal bonds.
- There were only 35 felony cases with bail set at \$100 or less in 2017 but there were 2,080 such felony cases in 2020 – a 59-fold increase.
- Low bonds (\$100 or less) were only 0.01% of felony cases in 2015 but rose to 4.64% in 2020.
- From 2017 to 2020, personal bonds rose from 3,969 felony cases to 15,756 felony cases. This is a 4-fold increase for felonies, despite not being the focus of misdemeanor bail reform.



# Key Findings

## Recidivism Has Increased Substantially Since Bail Reform

### Recidivism Rate Calculations in the Monitor Reports Included Thousands of Irrelevant Cases

In the first monitor report, the recidivism rate was calculated at the *case level*, and in the second monitor report, the recidivism rate for each year was calculated at both the *case level* and at the *offender level*:

- Case-level recidivism:

As our main outcome, we computed the share of misdemeanor cases in which a defendant was arrested for a new crime (either felony or misdemeanor) within 90, and 180, and 365 days of the initial case filing date. Each misdemeanor booking is counted as a “case.” This is a quite broad definition of repeat-offending, because if a single person repeat-offends more than once during those time periods, then each time it is counted as a new “case.” (Second ODonnell Report, page 41)

- Offender-level recidivism:

In this analysis, a person arrested on four separate occasions within a calendar year, for example, is considered as one repeat-offender, not three. (Second ODonnell Report, page 43)

In both calculations, there was no evidence that the monitors excluded irrelevant cases, which are cases where bond was not applicable.<sup>2</sup> These irrelevant cases include the following circumstances:

- Bond was not applicable because the individual involved was not a defendant (i.e., charged with any crime). These include no-billed cases where the individual was involved with a grand jury investigation but not charged for any crime.
- Bond was not applicable because the defendant was never apprehended. These defendants include fugitives and *ex parte* defendants.
- Bond was not applicable because the defendant was already in jail.
- Bond was applicable but the defendant did not pay the amount and was in jail. Including these defendants severely undermines the monitor report because jailed defendants have a low recidivism rate. The fact that thousands of jailed defendants did not re-offend does not support the argument for bail reform.

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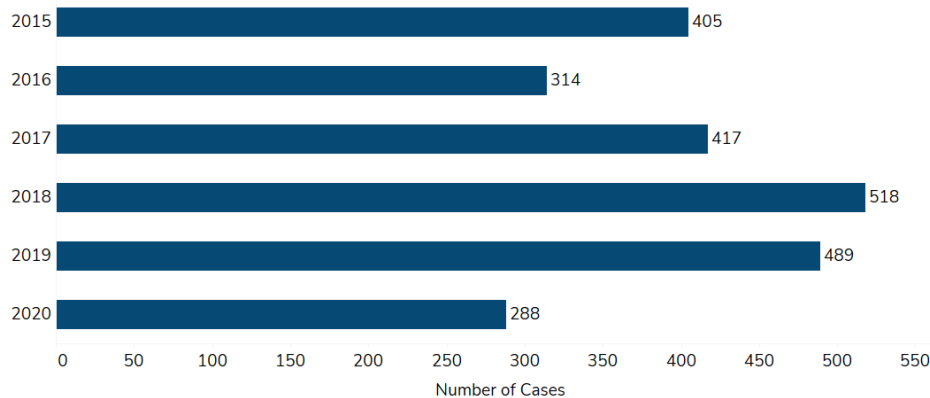
<sup>2</sup> There was no mention of excluded misdemeanor cases in the report. We asked the monitors at a public meeting on April 28, 2021 whether they excluded any cases in their data set from their recidivism calculations and they said that they did not. Furthermore, in an August 27, 2021 letter, the monitor team reiterated that no cases were excluded from their calculations.

The figures below show that the number of cases where bond was not applicable are not trivial:

**FIGURE 1. NO-BILLED CASES**

### Case Disposition: No Billed

Data source: Power BI data table used by monitor team and IAD analysts



**FIGURE 2. FUGITIVES FROM THE LAW**

### Offense Literal: Fugitives

Data source: Power BI data table used by monitor team and IAD analysts

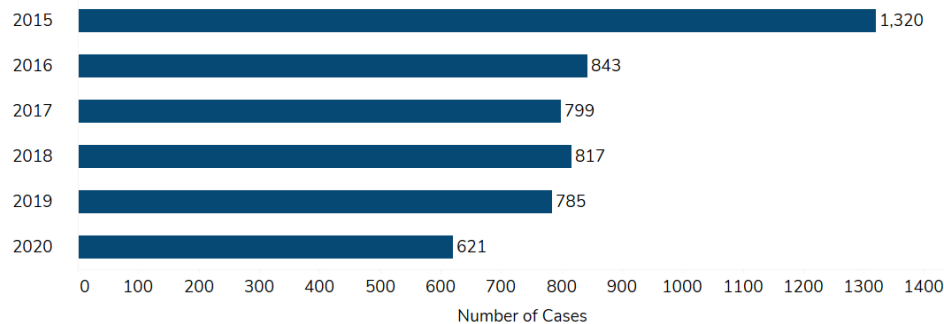


FIGURE 3. EX PARTE CASES

### Offense Literal or Judgement: Ex Parte

Data source: Power BI data table used by monitor team and IAD analysts

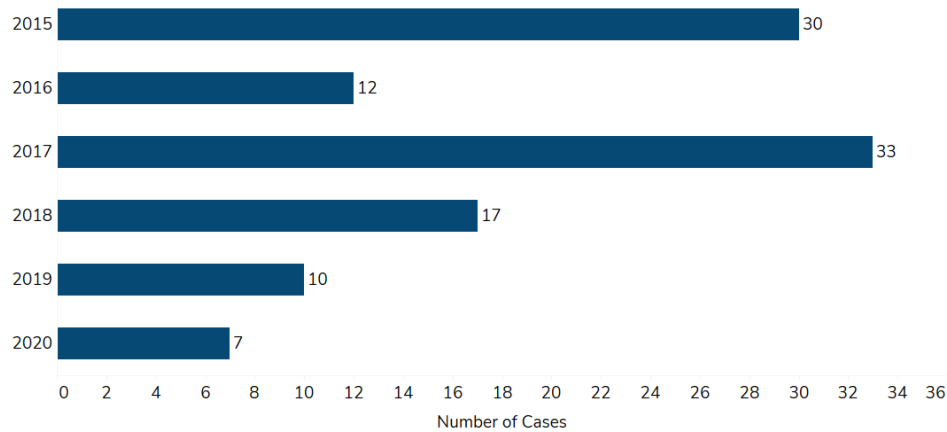
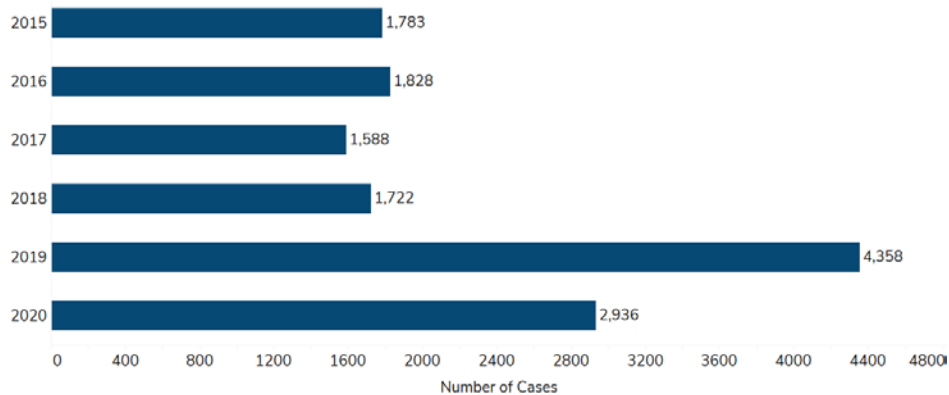


FIGURE 4. DEFENDANTS ALREADY IN JAIL AT THE TIME OF THE NEW CHARGE

### No Bond Cases Where the Defendant Was Already In Jail

Data source: Power BI data table used by monitor team and IAD analysts



*Note: A defendant is considered to be in jail if the file date for the defendant's case occurred after the defendant's booking date and before the release date.*

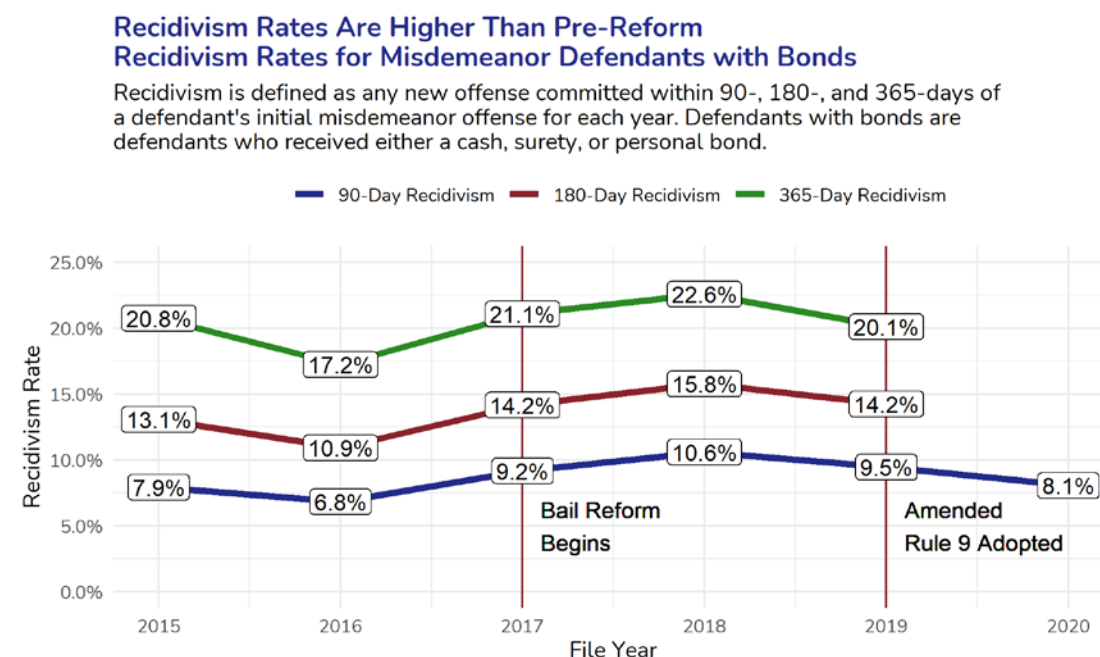
Indeed, the monitor reports did not distinguish between re-offenses that involved defendants who were on bond and defendants who were not on bond due to the circumstances indicated above. This distinction is important because of the sheer number of cases where the defendant was not on bond at all: 42.8% of felony cases and 25.8% of misdemeanor cases.

After excluding initial misdemeanor cases that do not involve any kind of bond, recidivism rates have not declined slightly (as the first and second monitor reports

claim) but have actually increased (see Figure 5).<sup>3</sup> The rates for 90-day and 180-day recidivism since bail reform began in 2017 have been consistently higher than the recidivism rates in 2015-2016. Note that we focus on offender-level recidivism to emphasize that it is individuals who re-offend, not cases.<sup>4</sup>

In response to an inquiry by the Harris County District Attorney's Office after this report was drafted, the monitor team provided detailed case-level recidivism rates, which are available in Appendix B. These detailed case-level recidivism rates – which were not published in the first or second monitor reports – support the findings indicating higher recidivism described in the following subsections.

**FIGURE 5. INCREASING RECIDIVISM RATES FOR BONDED MISDEMEANOR DEFENDANTS AFTER BAIL REFORM**



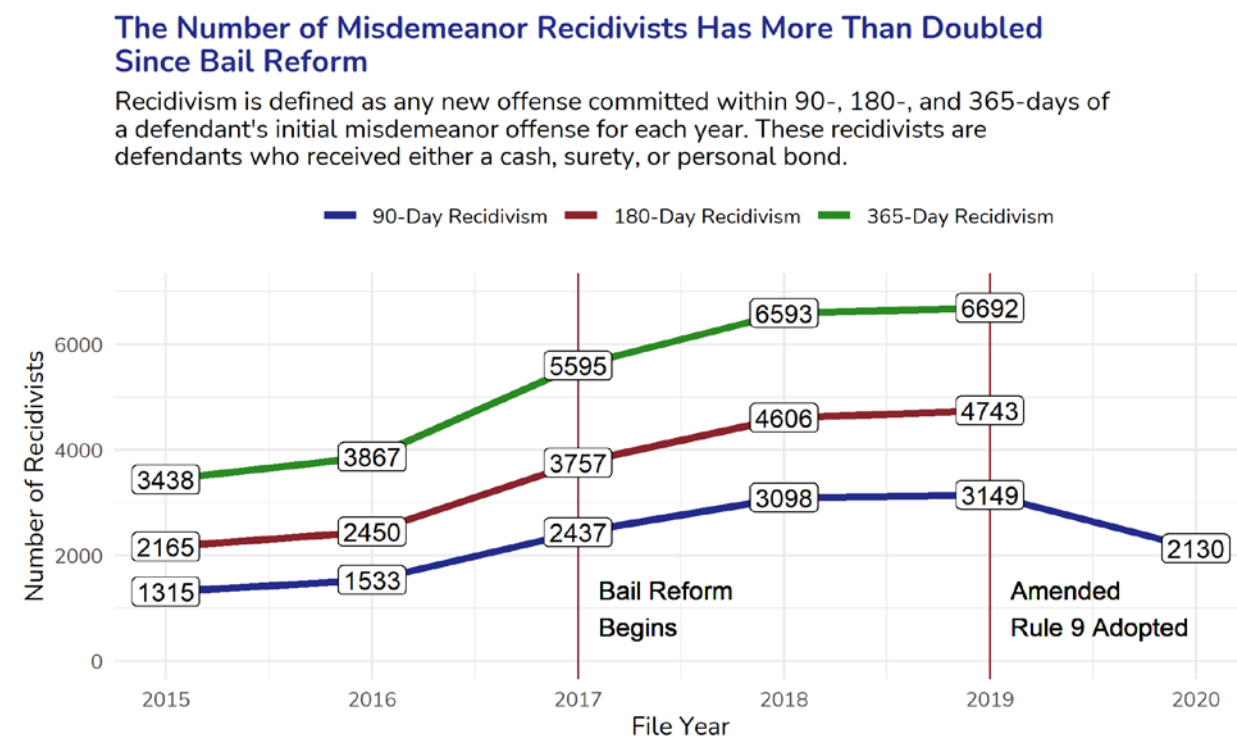
<sup>3</sup> The dataset used for this re-analysis of recidivism is the same raw dataset used by the JAD and monitor team in their analyses. This dataset was requested and obtained in April 2021 from the JAD analysts. It consists of 480,279 cases, including 241,388 felony, 238,881 misdemeanor, and 10 other cases. The first case in this dataset was filed on January 1, 2015, and the last case was filed on April 18, 2021. See Appendix A for descriptive statistics.

<sup>4</sup> To calculate recidivism rates, we first identified the index case for each defendant for each file year. This index case is the first misdemeanor case associated with a bond for a defendant. Cases filed for the same defendant within 90, 180, and 365 days of the index case are considered re-offenses. These re-offenses include bonded and unbonded felony and misdemeanor cases. Days to reoffend is the number of days between the file date of the index case and the file date of subsequent cases for each defendant. Because the last available case in the dataset is April 18, 2020, recidivism rates and days to reoffend for file year 2020 are limited to the 90-day definition of recidivism.

But focusing exclusively on recidivism rates is an overly narrow view of the impact of recidivism on public safety.

First, even if rates remain the same, if there are more defendants out on bond than there used to be, then the actual number of recidivists would be higher. This is important because when it comes to public safety, communities experience the actions of specific reoffenders – which are actual numbers rather than abstract rates. In fact, if you look at the actual numbers of recidivists (initially charged with misdemeanors and bonded), they have more than doubled (see Figure 6).

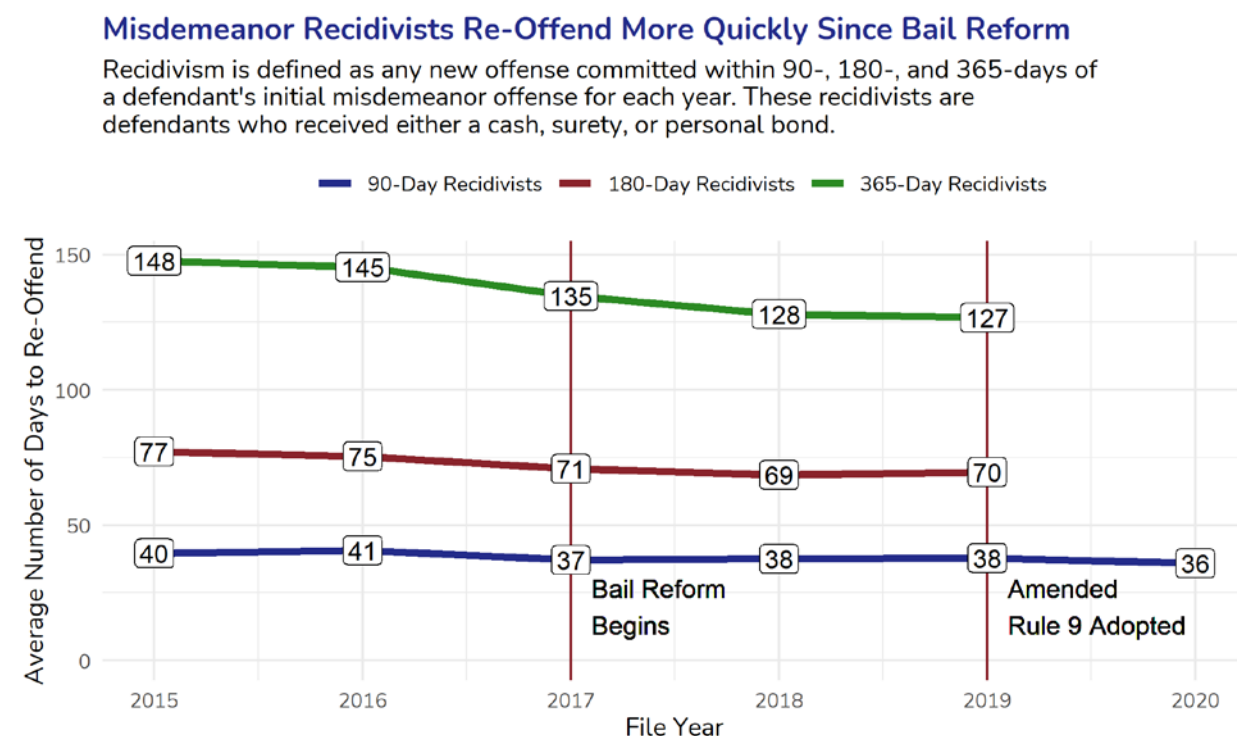
**FIGURE 6. LARGE INCREASES IN BONDED MISDEMEANOR DEFENDANTS WHO RE-OFFEND**



Second, whether the time it takes for recidivists to re-offend has increased or decreased is another important aspect of community safety. Even if the recidivism rate remained the same, if recidivists re-offended more quickly, communities would experience that as an increase in criminality.

Indeed, since the implementation of bail reform, this time-to-offend has decreased, which means that misdemeanor defendants who re-offend are doing so more quickly (see Figure 7).

**FIGURE 7. DECREASES IN DAYS TO THE NEXT OFFENSE**



Note:

- For 365-day recidivists, the average number of days to the next offense has decreased from 148 days to 127 days. That is a 21-day decrease, which means that, compared with 2019, the community in 2015 had a respite of three more weeks before experiencing the next offense from the same defendant.
- For 180-day recidivists, the average number of days to the next offense has decreased from 77 days in 2015 to 70 days in 2019. This is decrease of a week to the next offense from the same defendant.
- For 90-day recidivists, the average number of days to the next offense has decreased from 40 days in 2015 to 36 days in 2020.

### **Recidivism Associated with Personal Bonds Have Risen Dramatically as Personal Bonds Have Become More Common Due to Bail Reform**

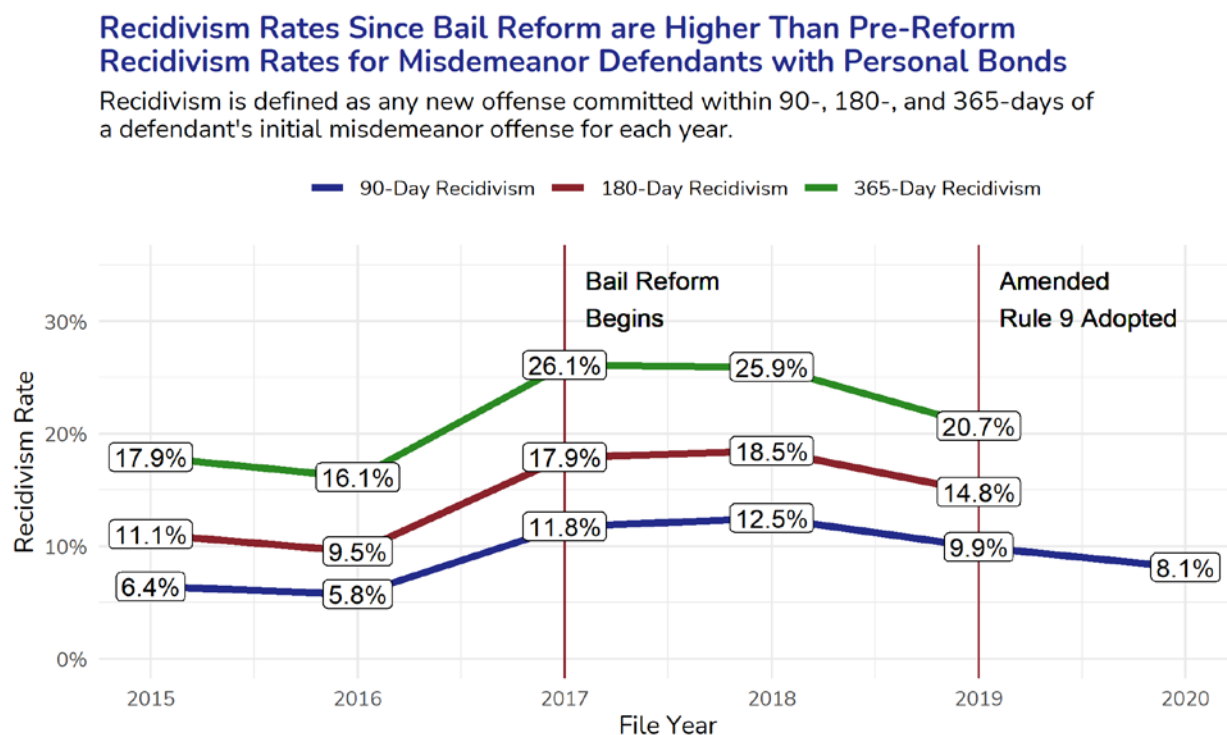
Before bail reform, there were few misdemeanor defendants out on personal bonds. Personal bonds are unsecured bonds that do not require the defendant to pay or deposit money for jail release. They include several types:

- Early presentment bonds
- General order bonds
- Personal PTR bonds
- Personal recognizances bonds
- SB7 PTRL bonds
- Unsecured bail bonds

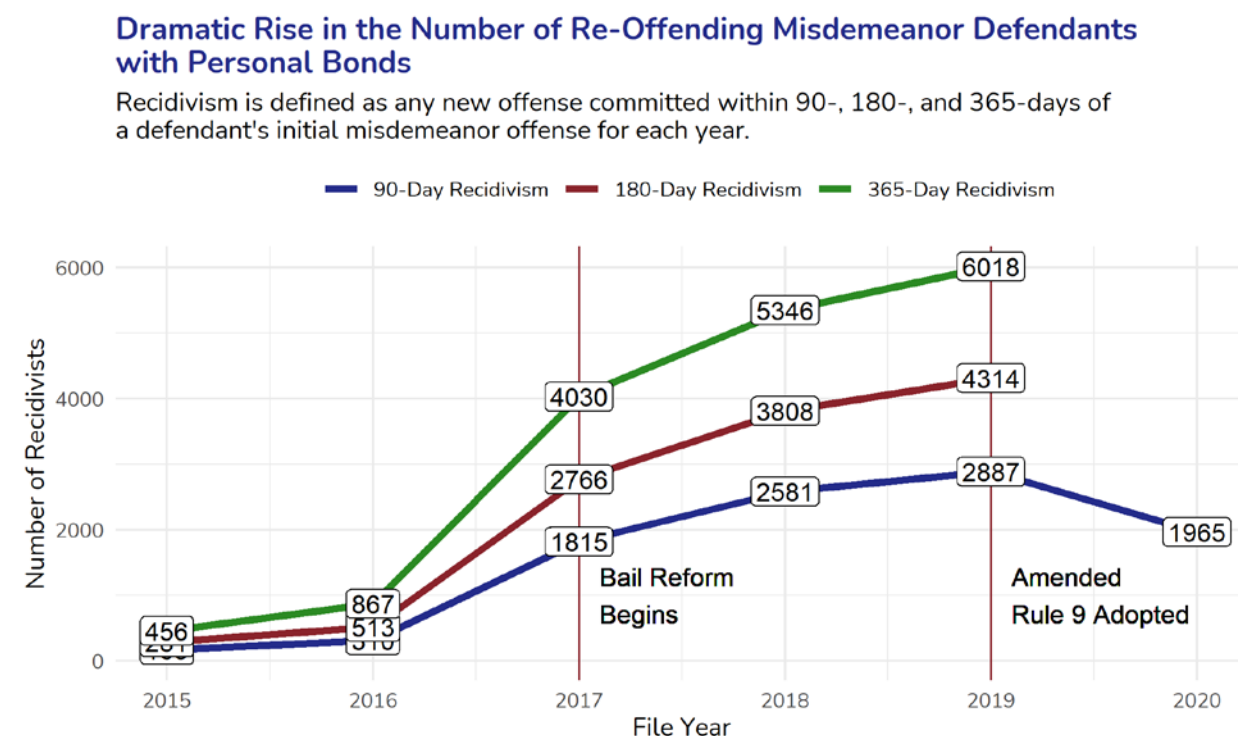
A key aspect of bail reform is the immediate release of misdemeanor defendants under personal bonds, provided that they were not already on probation, not under another warrant, and did not have a prior violent conviction. As expected, the number of misdemeanor defendants with personal bonds has increased; by 2020, the percentage of misdemeanor cases involving any kind of personal bond reached over 84%.

This dramatic increase in the use of personal bonds has enormous implications for public safety. Misdemeanor defendants with personal bonds have higher recidivism rates compared with other bond types, and these rates have increased substantially since the introduction of bail reform (see Figure 8). Because there are so many misdemeanor defendants out on personal bonds, these rate increases translate into very high numbers of recidivists (see Figure 9).

**FIGURE 8. HIGHER RECIDIVISM RATES FOR MISDEMEANOR DEFENDANTS WITH PERSONAL BONDS**



**FIGURE 9. VERY LARGE INCREASES IN THE NUMBER OF MISDEMEANOR DEFENDANTS WITH PERSONAL BONDS WHO RE-OFFEND**

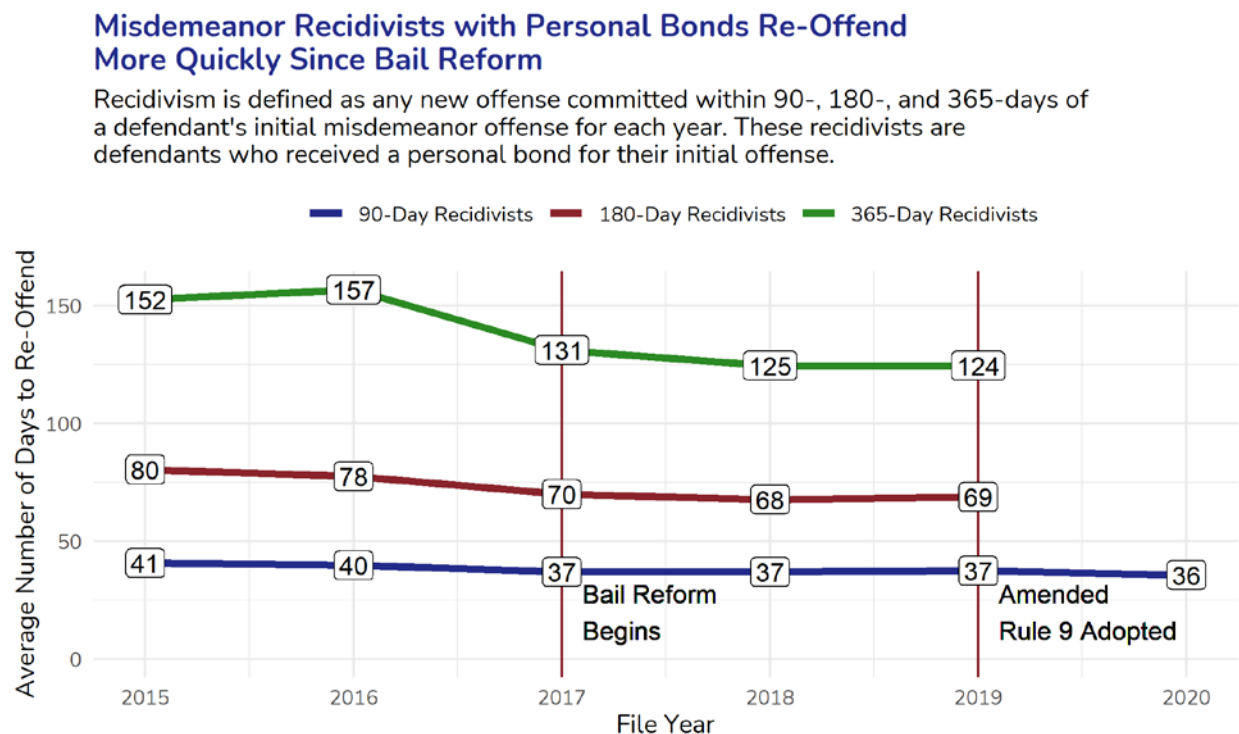


For example, the three-point increase in the recidivism rate for 365-day misdemeanor defendants on personal bond may seem modest. But back in 2015, when there were few personal bonds, this meant that there were only 456 recidivists. In 2019 however, when there were over 29,000 misdemeanor defendants out on personal bonds, this meant that there were 6,018 recidivists – which means the actual number of misdemeanor recidivists on personal bonds *increased 13 times* what it was in 2015.



Not only are there many more misdemeanor defendants with personal bonds who re-offend, they also re-offend faster. Figure 10 below shows that 365-day, 180-day, and 90-day recidivists are taking fewer and fewer days to re-offend since bail reform. Note that for 365-day recidivists with personal bonds, the average number of days to re-offend has dropped from 152 days in 2015 to 124 days in 2019 – a decrease of 28 days. That means recidivists have shaved off almost a month to their next offense. For 180-day recidivists with personal bonds, the average number of days to reoffend has decreased by 11 days, while 90-day recidivists have shaved off 5 days.

**FIGURE 10. DECREASES IN MISDEMEANOR RECIDIVISTS' NUMBER OF DAYS TO RE-OFFEND**



## Recidivism Rates Associated with Cash and Surety Bonds Were Declining Until Bail Reform and Have Increased Since.

Another key aspect of bail reform is the reduction of bail amounts.

Figure 11 shows that recidivism rates for misdemeanor defendants with cash bonds were actually declining from 2015 to 2018. With the adoption of amended Rule 9 in 2019, this trend reversed. Indeed, the recidivism rates for 2019 and 2020 are higher than any previous period for each type of recidivism.

**FIGURE 11. HIGHER RECIDIVISM RATES FOR MISDEMEANOR DEFENDANTS WITH CASH BONDS AFTER RULE 9 ADOPTION**

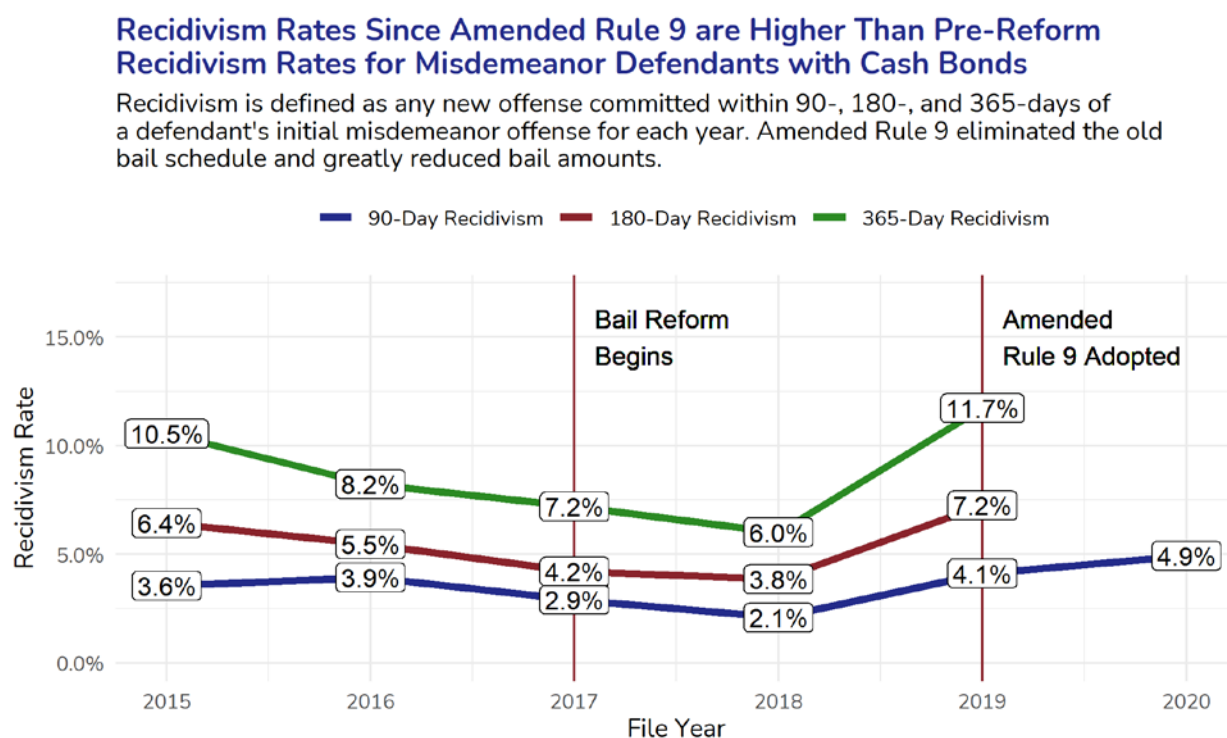
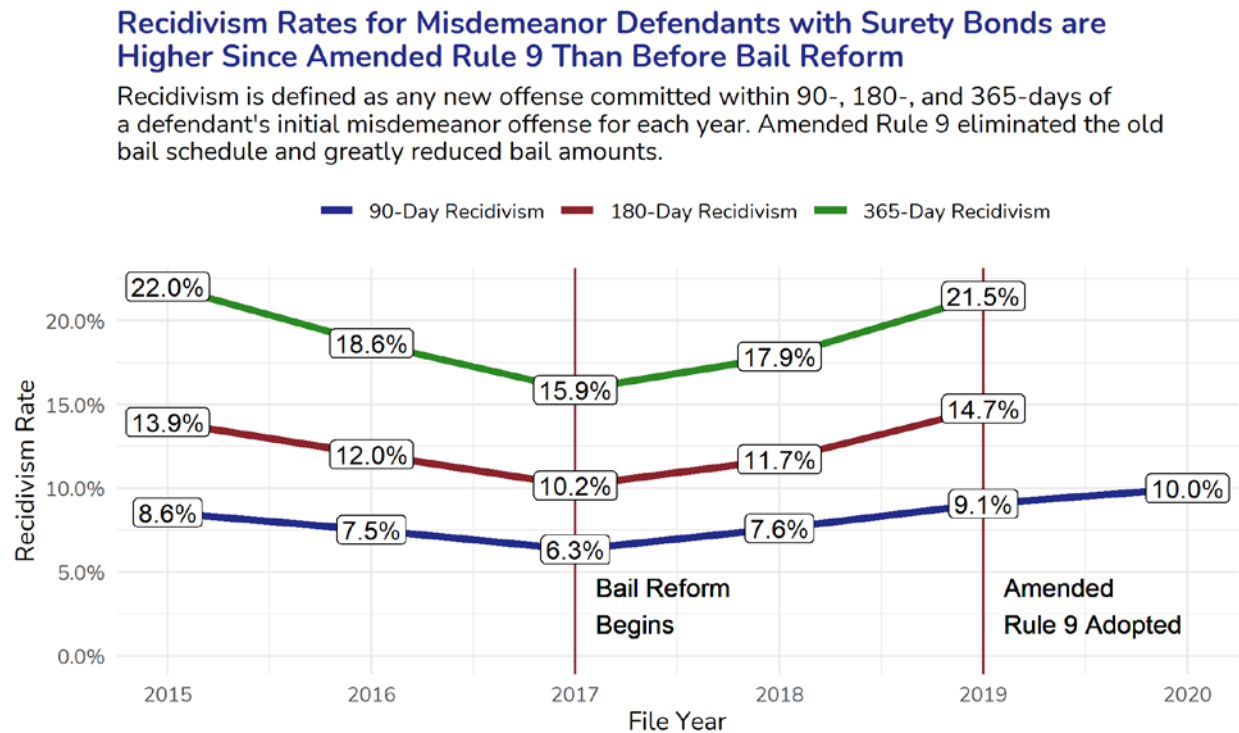


Figure 12 shows a similar story for recidivism rates for misdemeanor defendants with surety bonds. However, the trend reversal appears earlier; the increases in recidivism rates begin in 2018 and have continued to increase since.

**FIGURE 12. HIGHER RECIDIVISM RATES FOR MISDEMEANOR DEFENDANTS WITH SURETY BONDS SINCE BAIL REFORM**



## Bond Failures Have Increased Substantially Since Bail Reform

A major purpose of bail is to make sure that defendants will appear for trial and all pretrial hearings. Bail reform has increased the prevalence of pretrial release as well as the number of personal bonds relative to secured bonds. According to the second O'Donnell monitor report, these changes correspond with increases in the bond failure rate:<sup>5</sup>

We find that the overall bond failure rate has notably increased since 2017 but somewhat fell in 2019. Perhaps more importantly, the year-to-year variation in the

<sup>5</sup> The second monitor report describes the methodology for computing bond failures as follows:

Taking advantage of the improved bond data, we computed the share of initial bonds that “failed,” defined here as the bond approvals that resulted in bond forfeiture, bond surrender, or bond revocation within a year of the bond approval date. We note that these data reflects the decisionmaking of individual judges whether to consider a person to have “failed” bond, and this is not any objective measure of appearance or non-appearance, flight, bond violations, or new criminal activity. (page 37)

bond failure rate appears to be largely driven by the changes in the bond composition. The increased bond failure rates for 2017 and 2018 seem to reflect the prevalence of personal and general order bonds approved in these years, which tend to have a higher failure rate than cash/surety bonds. (Second monitor report, page 38)

Based on the second monitor report's *Figure 15: Share of Bond Failures within 365 Days* (page 38), bond failures since the implementation of bail reform have indeed “notably increased.” The overall bond failure rate appears to be about 18% in 2015 and 2016 before bail reform; it went up to around 29%-30% in 2017-2018 before falling slightly to about 28% in 2019. Another way of looking at this change is this: That means that before bail reform, about 2 out of 10 defendants failed to show up for court or otherwise failed to meet bond terms as determined by judges. After bail reform, about 3 out of 10 defendants fail to do so. This is a 50% increase in the overall bond failure rate since the implementation of bail reform.

### **Bond Failures Associated with General Order and Other Personal Bonds are Very High**

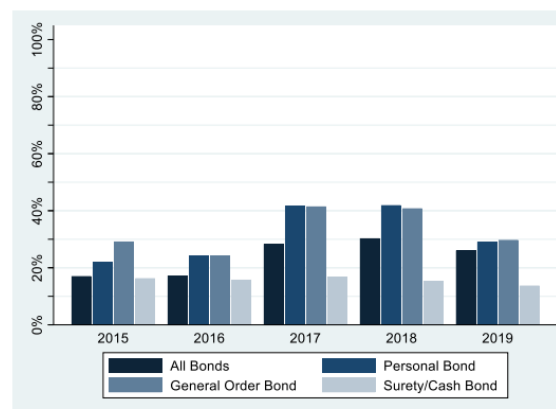
The second monitor report acknowledges that general order and other personal bonds tend to have higher failure rates.<sup>6</sup> A closer look at the bond failure rates associated with general order and other personal bonds reveals more staggering outcomes since the advent of bail reform.

An initial look at *Figure 15: Share of Bond Failures within 365 Days* in the second monitor report (page 38) shows that bond failure rates associated with general order bonds do not seem have a consistent trend from 2015 to 2019. The failure rate appears to be about 30% in 2015 and 25% in 2016, then it rises to 40% in 2017 and 2018, and finally goes back

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The resulting plot of bond failures is reproduced below for reference. The report does not report exact numbers or percentages.

Figure 15: Share of Bond Failures within 365 Days



<sup>6</sup> General order bonds are a type of personal bond expanded under amended Rule 9. These bonds provide for the immediate release of individuals charged with low-level crimes under a personal bond, provided that they were not already on probation, under another warrant, and did not have a violent conviction.

down to about 30% in 2019. Some simple calculations based on numbers reported elsewhere in the second monitor report reveal that the actual number of defendants who failed bond has been consistently rising since bail reform (see Table 1). We can see that while the bond failure rate declined from about 40% in 2017 to about 30% in 2019, the increased use of general order bonds means that the actual number of defendants who failed bond in 2019 is *7 times what it was in 2017*.

**TABLE 1. CALCULATIONS SHOWING VERY LARGE INCREASES IN BOND FAILURES FOR GENERAL ORDER BONDS**

	2015	2016	2017	2018	2019	Source
<b>Reported Number of Misdemeanor Cases (Approximate)</b>	63,000	62,000	53,000	57,000	52,000	Second monitor report, “Figure 1: Number of Misdemeanor Cases”
<b>Reported Percentage of Misdemeanor Cases with General Order Bonds (Approximate)</b>	0	0	5%	25%	48%	Second monitor report, “Figure 13: Types of Initial Bond Approvals”
<b>Calculated Number of General Order Bonds</b>	0	0	2,650	14,250	24,960	Reported number of misdemeanor cases multiplied by the reported percentage of misdemeanor cases with general order bonds
<b>Reported Bond Failure Rate (Approximate)</b>	30%	25%	40%	40%	30%	Second monitor report, “Figure 15: Share of Bond Failures Within 365 Days”
<b>Number of Bond Failures</b>	0	0	1,060	5,700 438% increase from 2017	7,488 606% increase from 2017	Calculated number of general order bonds multiplied by the reported bond failure rate

*Note: Because the monitor reports do not report exact numbers or percentages, we resort to eyeballing the plots presented.*

For other personal bonds, bond failure outcomes are even more sobering. Relying on the same plot of rates from the second monitor report, the trend for bond failure rates for other personal bonds appears similar to that of general order bonds: about 22% in 2015 and 25% in 2016, then it rises to 40% in 2017 and 2018, and finally goes back down to about 30% in 2019. Using the same simple calculations as we did above for general order bonds, we see that the increases in the number of bond failures for other personal bonds are consistently higher compared with the pre-reform period (see Table 2).

**TABLE 2. CALCULATIONS SHOWING VERY LARGE INCREASES IN BOND FAILURES FOR OTHER PERSONAL BONDS**

	2015	2016	2017	2018	2019	Source
<b>Reported Number of Misdemeanor Cases (Approximate)</b>	63,000	62,000	53,000	57,000	52,000	Second monitor report, “Figure 1: Number of Misdemeanor Cases”
<b>Reported Percentage of Misdemeanor Cases with Other Personal Bonds (Approximate)</b>	8%	10%	29%	21%	20%	Second monitor report, “Figure 13: Types of Initial Bond Approvals”
<b>Calculated Number of Other Personal Bonds</b>	5,040	6,200	15,370	11,970	10,400	Reported number of misdemeanor cases multiplied by the reported percentage of misdemeanor cases with other personal bonds
<b>Reported Bond Failure Rate (Approximate)</b>	22%	25%	40%	40%	30%	Second monitor report, “Figure 15: Share of Bond Failures within 365 Days”
<b>Number of Bond Failures</b>	1,159	1,550 34% increase from 2015	6,148 430% increase from 2015	4,788 313% increase from 2015	3,120 169% increase from 2015	Calculated number of other personal bonds multiplied by the reported bond failure rate

*Note: Because the monitor reports do not report exact numbers or percentages, we resort to eyeballing the plots presented.*

Using the second monitor report's own numbers, we see that while the number of personal bond failures was only about a thousand cases before bail reform, they numbered in the thousands every year since bail reform began.

In contrast to the increases in bond failures for general order and other personal bonds, the bond failure rate for cash and surety bonds appear to be slightly declining from about 18% to about 15% from 2015 to 2019 (see *Figure 15: Share of Bond Failures within 365 Days* from the second monitor report). This suggests that moving defendants from these secured bonds to general order or other personal bonds (i.e., unsecured bonds) has drastically increased the bond failure rate.

## **Since Bail Reform, Bond Failure Rates are Higher Under Both Pre ODonnell Consent Decree and Post ODonnell Consent Decree Judges**

The second monitor report says bond failure rates should be taken with caution because they are not “objective” measures. That is, even if a defendant is caught violating the conditions of his bond, whether his bond is revoked is left to the discretion of the trial judge. Bond failure rates are thus in large part subjective based on the particular judge.

What this means is that if a new slate of judges took office who were less likely to revoke bond, bond failure rates would go down even if the sort of behavior that might lead to bond failure remained constant.

In fact, that is precisely what happened in Harris County when a new slate of judges took office in 2019. These judges approved and were parties to the ODonnell consent decree and were therefore more disposed to leaving defendants on bond and not revoking bonds. In the first two years of bail reform under the previous judges (2017-2018), bond failures rates increased dramatically. In contrast, those rates decreased in 2019 under the new judges.

The second monitor report points to the subjective nature of bond failure and suggests that’s a reason to shrug off this metric. Perhaps that is why the report omits bond failure rates from its executive summary of key findings. But truth is the opposite: Bond failure rates are higher now than they were before bail reform, even with the post-ODonnell judges. That suggests that the underlying reality of bailed defendants’ not abiding by the conditions of their bonds is even worse than what the numbers show.

Here is another caveat from the second monitor report:

Finally, we note that bond failure rates may reflect both conduct by persons charged with misdemeanors, as well as decisions by judges whether to revoke or forfeit a bond, and we cannot at present assess the relative role of each in the observed patterns in the data.

The monitor report treats this as an impasse, but one can think through this. We know there was a change in judges in 2019. For defendants, there are three possibilities for behavioral change since bail reform: 1) increased behavior that might lead to bond failure, 2) decreased behavior that might lead to bond failure, or 3) constant levels of behavior that might lead to bond failure.

To summarize the interplay between judges and defendants, we have the following possibilities depicted in Table 3:

**TABLE 3. POSSIBLE BOND FAILURE RATES AFTER BAIL REFORM DEPENDING ON JUDGES AND DEFENDANTS**

		MISDEMEANOR DEFENDANT BEHAVIOR AFTER BAIL REFORM		
		IF DECREASED CRIMINALITY	IF SAME AS PRE- REFORM CRIMINALITY	IF INCREASED CRIMINALITY
JUDGE TYPE DURING BAIL REFORM	PRE-ODONNELL JUDGES	Less than baseline bond failure rate	Same as baseline bond failure rate	More than baseline bond failure rate
	POST- ODONNELL JUDGES	Less than baseline bond failure rate	Less than baseline bond failure rate	Same as or more than baseline bond failure rate

*Note: The baseline bond failure rate refers to the bond failure rate under the judges during the pre-reform period. Criminality refers to behavior that might lead to bond failure regardless of whether the behavior actually leads to bond failure.*

The data that we actually observe is consistent with the possibilities in the outlined squares: increased criminality after bail reform. The monitor report got caught up in the influence of individual judges on rates of bond failure, but that does not keep us from observing the big picture. The big picture is that the observed data suggests increased criminality. Quibbling over the particularized contributions of defendants and judges is just an academic exercise.

**Contrary to the JAD's Claims of "Socio-Economic Pressures" Leading to Higher Crime Rates, Property Crimes Began Trending Up as Unemployment Rates Declined During Bail Reform and Before the Pandemic**

According to the JAD memo:

Last, month-level time-series analyses present evidence that monthly counts of murders are better predicted by **economic pressures and COVID-19** than by any local policy. (JAD memo, page 2)

And also:

Moreover, the fact that many offenses in the City of Houston and Harris County have only begun rapidly increasing since the summer suggests that increases in crime might be more accurately attributed to the COVID-19 pandemic's increase in **economic and social pressures**. (JAD memo, page 28)

These claims are based in part on the association of higher unemployment rates with increases in crime during the COVID-19 pandemic of 2020. However, a closer look at the JAD's own data and analysis regarding property crimes and unemployment rates



do not support the JAD's claims regarding the role of socio-economic pressures in general or pandemic-driven socio-economic pressures in particular.

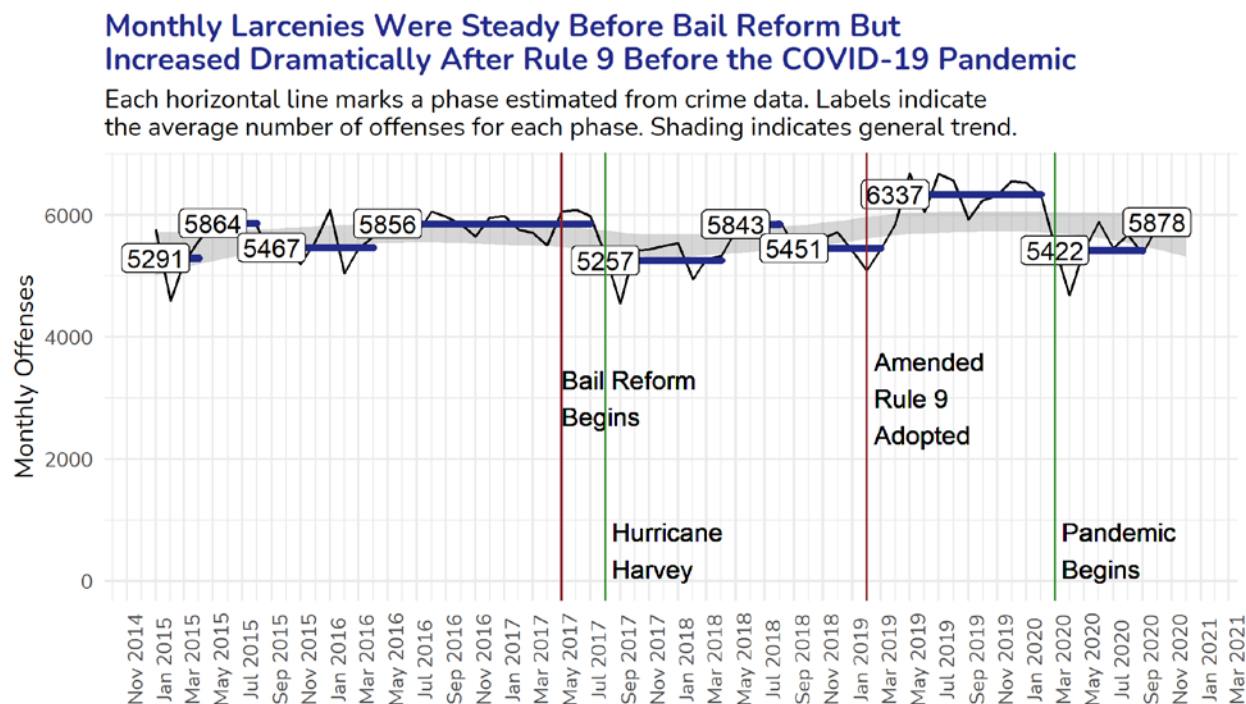
### Property Crimes Did Not Go Up During the Pandemic

During times of socio-economic deprivation, one would expect property crimes to go up. According to the JAD report's trend analysis, property crimes – namely, larcenies and burglaries – have been steady or slightly down, even during the pandemic. For larcenies, the JAD memo notes:

Daily counts of Larceny Offenses in the City of Houston have exhibited little change in the past 5 years, save for a small decrease beginning in the Fall of 2019 and ending around present day. (JAD memo, page 14)

Using the JAD's data on larcenies in Houston, we see that while larcenies increased dramatically after the adoption of amended Rule 9, there was a drop to pre-reform levels of larceny during the pandemic even though one would expect stronger socio-economic pressures during the latter period (see Figure 13).

**FIGURE 13. MONTHLY LARCENIES DID NOT RISE DURING THE PANDEMIC DESPITE INCREASED SOCIO-ECONOMIC PRESSURES**



*Data Source: Houston Police Department Data Compiled by JAD Analysts, 2015 to 2020. Larcenies include crimes coded as pocket-picking, purse snatching, shoplifting, theft from building, theft from coin-operated machine or device, theft from motor vehicle, theft of motor vehicle parts or accessory, theft, and all other larceny. Monthly offenses were aggregated from daily incidents for the City of Houston. Shading indicates overall trend via local regression (LOESS), which essentially fits polynomial regressions to subsets of the data and joins them together. Structural breaks and associated means were estimated using binary segmentation.*

Each segment (denoted by blue horizontal lines) denotes a new phase characterized by a new average level of larcenies. The change from one phase to another is estimated from the data using binary segmentation, which is a commonly used method in changepoint analysis.<sup>7</sup> From Figure 13 we can see that the new phase following the adoption of amended Rule 9 has an average mean of 6,337 monthly larcenies, which surpasses the pre-reform record of 5,864. That works out to about 16 more larcenies every day in the post-Rule 9 period compared with previous high-larceny periods.

As for burglaries in Houston, the JAD memo notes:

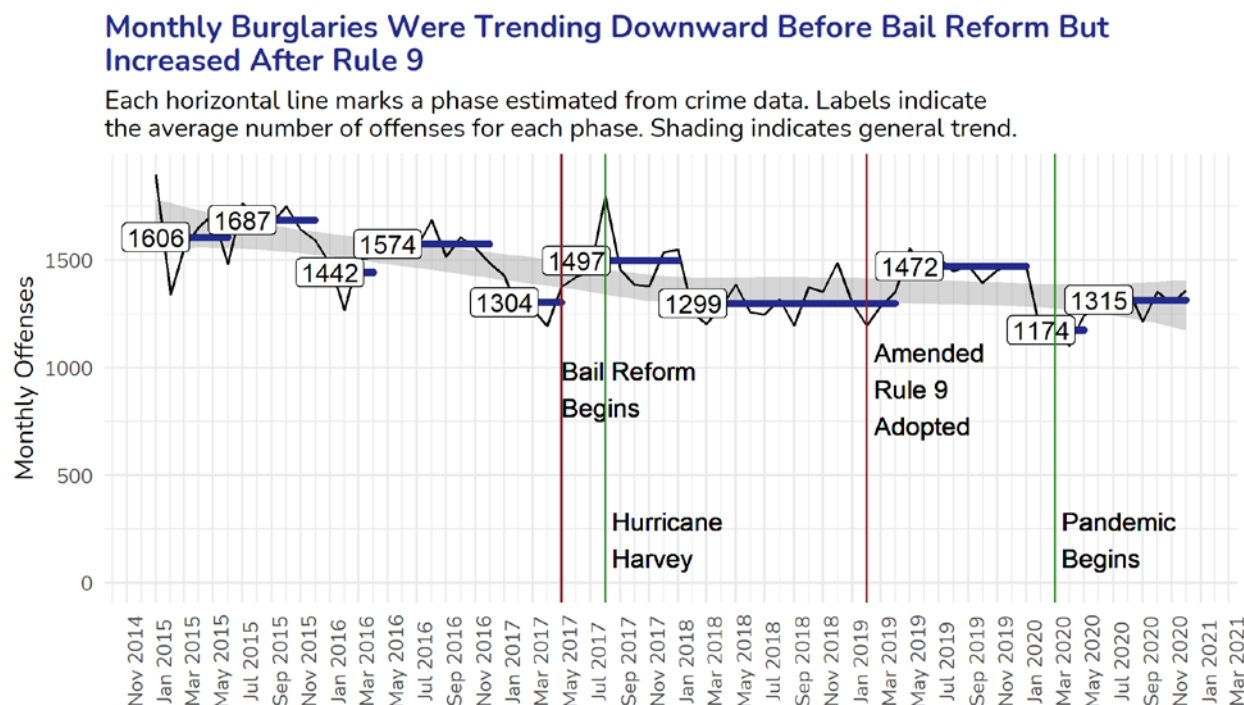
Daily counts of Burglary or Breaking and entering incidents in the City of Houston (Figure 16) have been slowly declining since 2015. This corroborates HPD's evidence that "robbery/breaking and entering" incidents have declined from 2019 to 2020. (JAD memo, pages 15-16)

The JAD's data on monthly burglaries shows a slight upward trend in burglaries during bail reform but a decline in burglaries once the pandemic began (see Figure 14). Before bail reform, burglaries were on a strong downward trend from 2015, before spiking after bail reform began with the preliminary injunction in May 2017 and again during Hurricane Harvey in August 2017. After these spikes, burglaries continued to trend downward until about August 2018, when the trend reversed direction and began going up. This upward trend reached a new high burglary phase after the adoption of amended Rule 9 – namely, 1,472 average monthly burglaries – before declining with the advent of the pandemic.

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<sup>7</sup> Changepoint analysis is used to identify the point or points in a time series at which a change, or break in the trend, takes place. For more information, please see Killick, Rebecca and I. Eckley. "changepoint: An R Package for Changepoint Analysis." *Journal of Statistical Software* 058 (2014): 1-19. URL: [www.jstatsoft.org/v58/i03](http://www.jstatsoft.org/v58/i03).

**FIGURE 14. MONTHLY BURGLARIES DID NOT RISE DURING THE PANDEMIC DESPITE INCREASED SOCIO-ECONOMIC PRESSURES**



*Data Source: Houston Police Department Data Compiled by JAD Analysts, 2015 to 2020. Burglaries include crimes coded as burglary and breaking and entering. Monthly offenses were aggregated from daily incidents for the City of Houston. Shading indicates overall trend via local regression (LOESS), which essentially fits polynomial regressions to subsets of the data and joins them together.*

The analysis of larcenies and burglaries using the JAD's dataset shows that increases for these property crimes occurred after amended Rule 9 adoption but actually decreased when the pandemic began. If socio-economic pressures are a major driver of crime and if we posit these pressures were stronger during the pandemic due to mass lockdown of economic activity and soaring unemployment rates, these pressures were apparently insufficient to raise property crime rates in Houston. Perhaps these pressures were not enough to overcome the lesser opportunities for theft due to social distancing, business closures, and mass lockdowns. In any case, the concept of "socio-economic pressures" needs to be clarified as a driver of crime rates.

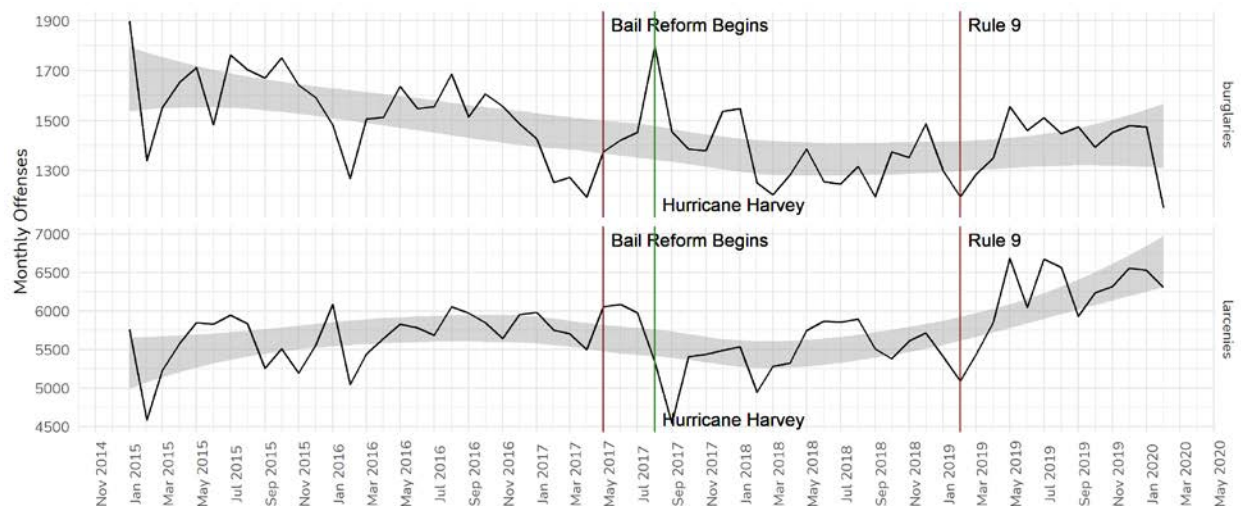
And yet the JAD report attributes the increase in murders and other violent crimes to socio-economic pressures. It is a strange theory of crime that posits people driven by deprivation and desperation would be more likely to kill a man but not more likely to steal his possessions.

### **Property Crimes Began Trending Up After Bail Reform Before the Pandemic**

It is clear, however, that the pandemic and its associated effects make it difficult to assess the effects of bail reform during 2020. But there is enough data before the pandemic to show that bail reform interrupted the previous trends in property crime

A closer look at the plots for monthly property crimes before the pandemic shows that both burglaries and larcenies began rising slightly after bail reform began and rose more substantially after the adoption of amended Rule 9 (see Figure 15).

**FIGURE 15. BEFORE THE PANDEMIC, PROPERTY CRIMES BEGAN RISING DURING BAIL REFORM ESPECIALLY AFTER RULE 9**

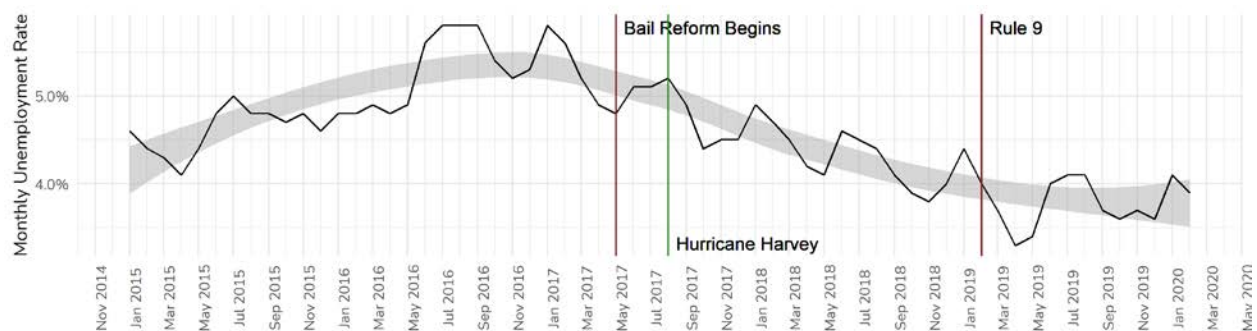


Data Source: Houston Police Department Data Compiled by JAD Analysts, 2015 to 2020. Monthly offenses were aggregated from daily incidents for the City of Houston. Shading indicates overall trend via local regression (LOESS), which essentially fits polynomial regressions to subsets of the data and joins them together.

## The Unemployment Rate Was Consistently Trending Downward After Bail Reform Before the Pandemic

Data compiled by JAD analysts from the Bureau of Labor Statistics show that unemployment was clearly declining during the period of bail reform before the 2020 pandemic (see Figure 16). This provides important context for the role of socio-economic pressures in the analyses of rising violent crime rates in the next sections.

**FIGURE 16. HARRIS COUNTY UNEMPLOYMENT DECLINED DURING BAIL REFORM**



Source: JAD unemployment rates for Harris County compiled from the Bureau of Labor Statistics

## All Violent Crimes Increased After the Adoption of Amended Rule 9

According to the JAD memo:

A theory that traces bail reform to violent crime cannot explain why some forms of violent crime have increased while others have decreased.

However, using the JAD's own data on violent crime in Houston, we see that violent crimes have consistently trended upward after the adoption of amended Rule 9, regardless of the overall trends for each particular crime (see Figure 17). Note that violent crime includes the following:

- *Aggravated assaults*: assaults that result in serious physical injury or involve a deadly weapon
- *Simple assaults*: assaults that result in minor or no physical injury or threats
- *Homicides*: murders and non-negligent murders
- *Robberies*
- *Sexual assaults*: forcible rapes, forcible sodomies, sexual assaults with objects, forcible fondling
- *Weapons possession*

Note that data for simple assaults, sexual assaults, and, weapons possession are incomplete so we cannot assess pre-reform trends for those crimes. We can, however, assess patterns before and after the adoption of amended Rule 9 for all violent crime types.

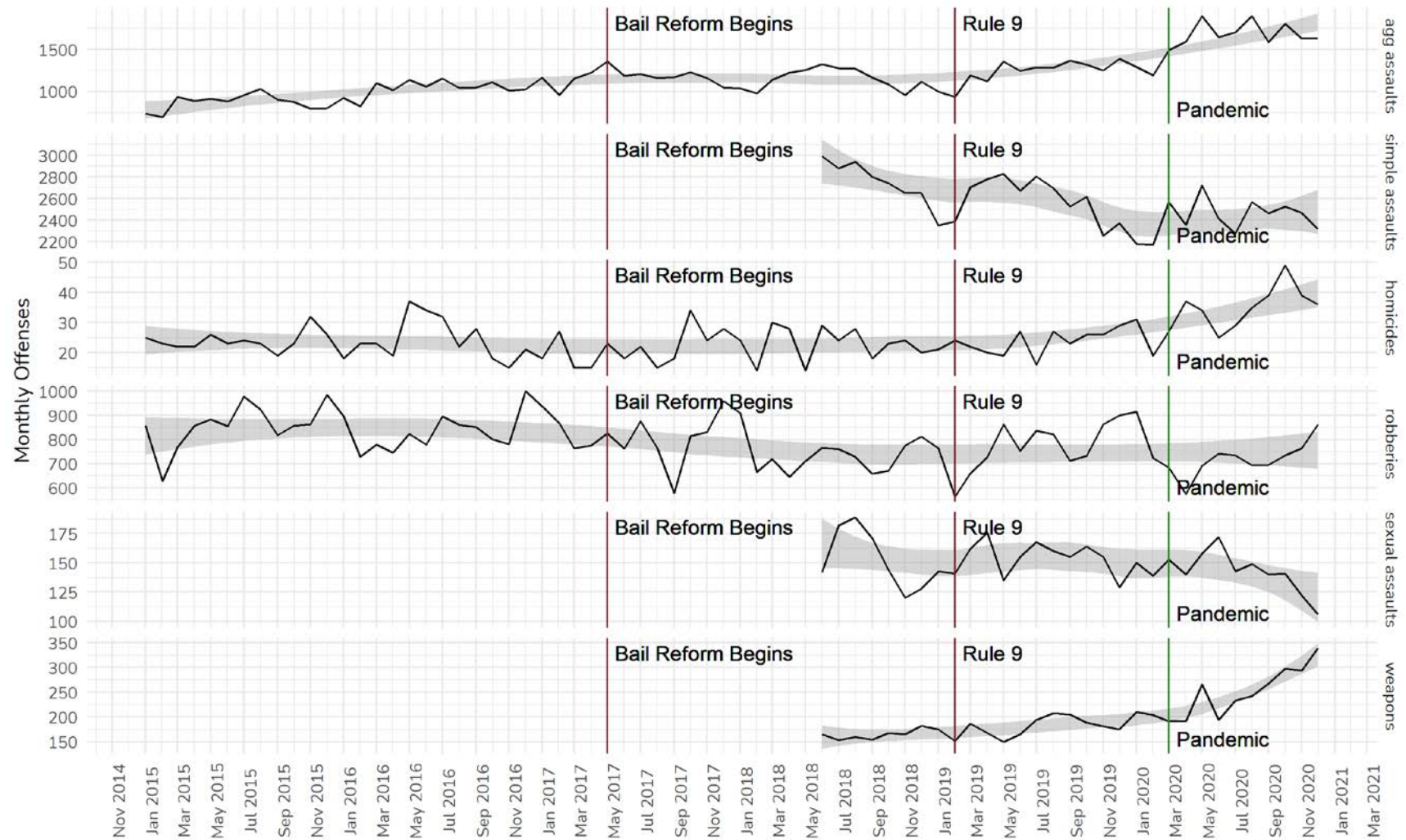
The JAD memo considers each type of violent crime separately. The trends are described in separate sections and the plots depicting those trends are presented separately as well. Given that each type of crime does indeed exhibit different patterns over time, it is easy to see how the JAD memo arrived at the conclusion that there was no overall consistent pattern relating to bail reform.

But if we stack the plots for violent crime and add reference lines denoting a few major milestones (see Figure 16), it turns out that there is a consistent pattern that emerged after the adoption of amended Rule 9: Regardless of whether each specific crime type was previously increasing, decreasing, or holding steady, every one shows an increase in monthly offenses within 1-5 months of February 2019. For all but one type of violent crime, this increase became part of an upward trend or new steady state.

For simple assaults, this Rule 9 spike was quickly followed by a declining trend. Simple assaults are assaults that result in minor or no bodily harm or threats to carry out such assaults. It is very possible that these crimes are particularly sensitive to victims' reluctance to report if they believe that offenders would be released more or less immediately – which they would be under bail reform. But without pre-reform data, we cannot be sure.

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**FIGURE 17. VIOLENT CRIMES IN HOUSTON ALL INCREASED AFTER AMENDED RULE 9 ADOPTION**



Data Source: 2015-2020 Houston Police Department Data Compiled by JAD analysts. Monthly offenses were aggregated from daily incidents for the City of Houston and restricted to dates before March 2020. Shading indicates overall trend via local regression (LOESS), which essentially fits polynomial regressions to subsets of the data and joins them together.



In the following subsections, we take a closer look at each type of violent crime in Houston.

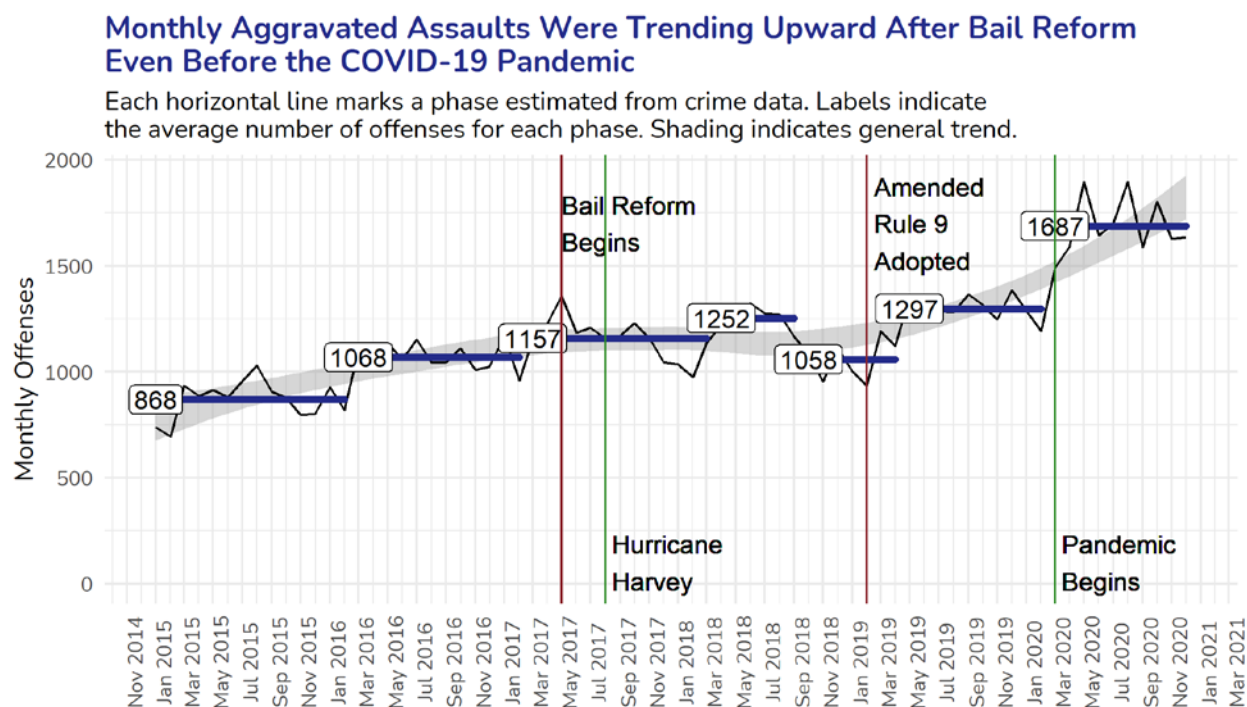
## Aggravated Assaults

When it comes to aggravated assaults, the JAD memo observes:

Daily counts of Aggravated Assaults in the City of Houston have been increasing almost linearly from 2015 to the end of 2020. The average daily incidence of Aggravated Assaults in the City of Houston nearly doubled within that time frame. (JAD memo, page 8)

“Almost linearly” is the key phrase here. Figure 18 shows that monthly aggravated assaults have indeed been steadily increasing since 2015 and through the start of bail reform. Around the adoption of amended Rule 9, however, this trend began increasing more sharply – no longer “linearly.”

**FIGURE 18. MONTHLY AGGRAVATED ASSAULTS IN HOUSTON**



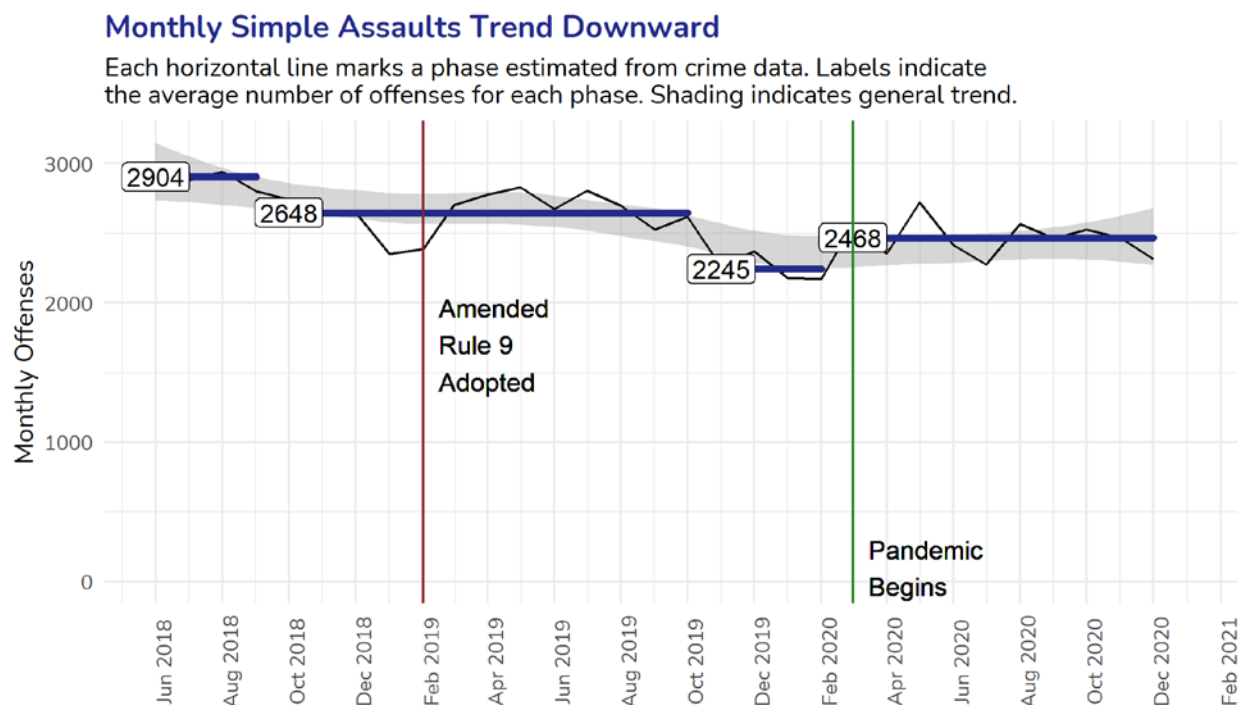
Data Source: 2015-2020 Houston Police Department Data Compiled by JAD analysts. Monthly offenses were aggregated from daily incidents for the city of Houston and restricted to dates before March 2020. Shading indicates overall trend via local regression (LOESS), which essentially fits polynomial regressions to subsets of the data and joins them together.



## Simple Assaults

The decreasing trend in monthly simple assaults in Houston was interrupted by increases shortly after the adoption of amended Rule 9 in February 2020 (see Figure 19). Again, we do not have sufficient data to see when this declining trend began.

FIGURE 19. MONTHLY SIMPLE ASSAULTS IN HOUSTON



*Data Source: 2015-2020 Houston Police Department Data Compiled by JAD analysts. Monthly offenses were aggregated from daily incidents for the city of Houston and restricted to dates before March 2020. Shading indicates overall trend via local regression (LOESS), which essentially fits polynomial regressions to subsets of the data and joins them together.*

## Homicides

Compared to other crimes, homicides are rare and that means plots of homicide rates often appear very erratic. The result is that trends can be tricky to discern.

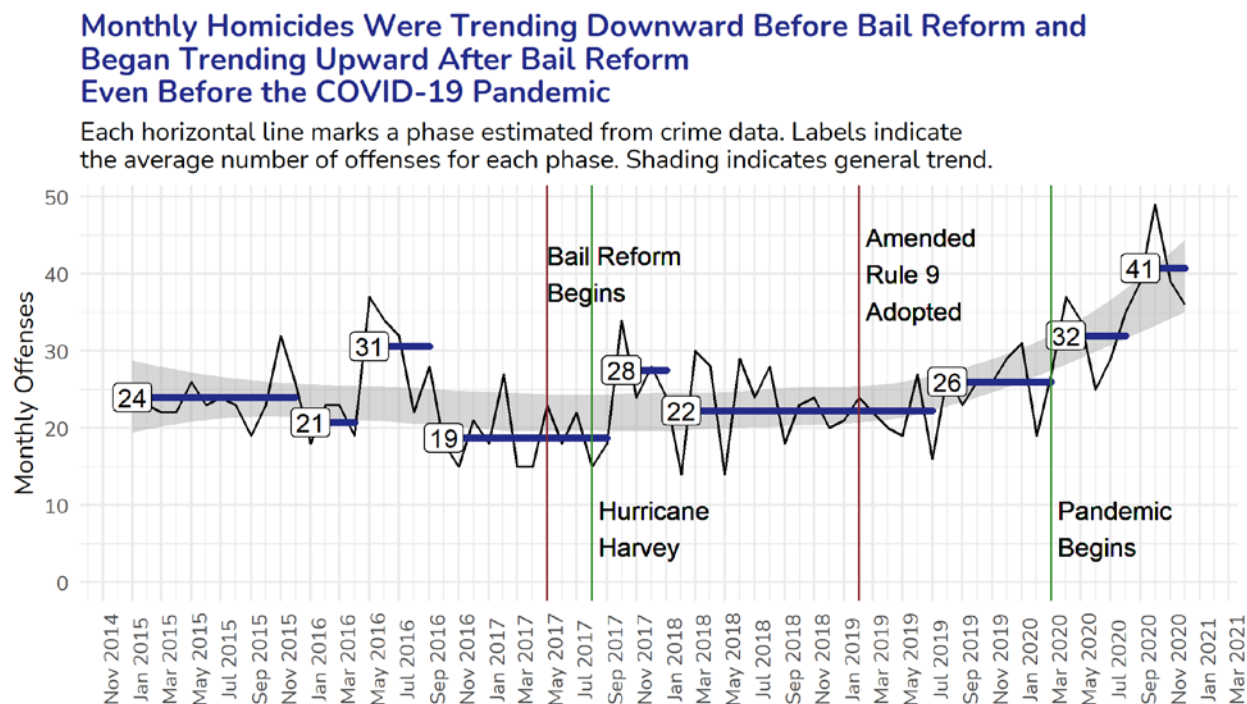
According to the JAD memo:

Murders in the City of Houston in 2020 very closely tracked those from 2017-2019, with a sharp increase coming at the end of 2020. (JAD memo, page 5)

A closer look at the JAD's data reveals a more nuanced picture of homicides in Houston. Figure 20 suggests that the increase in homicides began before the pandemic. In general, Houston has periods where monthly homicide numbers are high alternating with periods where monthly homicides are low. With this pattern in mind, monthly homicide numbers in Houston appear to be somewhat declining before bail reform – with the exception of a large spike in homicides in early summer of 2016 – before

settling into a new normal of about 19 homicides per month. After bail reform began and after Hurricane Harvey, homicides spiked again and then fell to a new phase of 22 homicides per month. This new phase continued through the adoption of Rule 9. A few months later, homicides began climbing to a new normal of 26 homicides per month. But unlike previous years, homicides did not fall again but continued to rise through the pandemic.

**FIGURE 20. MONTHLY HOMICIDES IN HOUSTON**

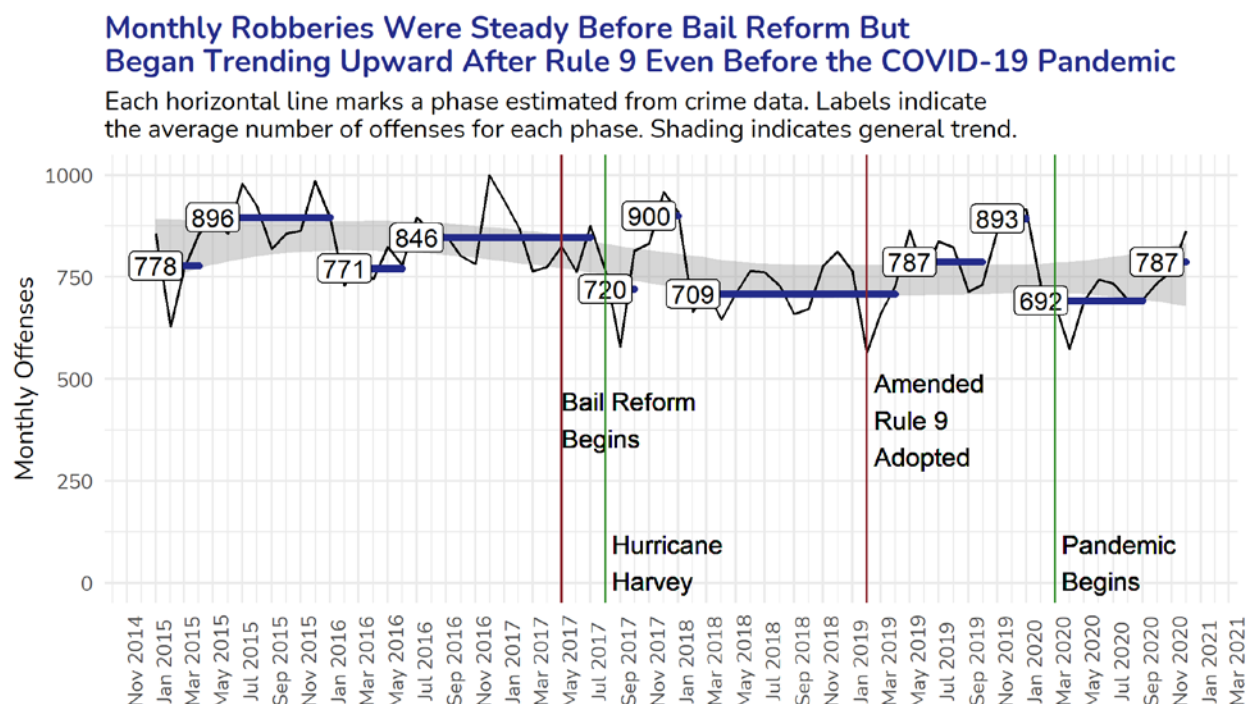


*Data Source: 2015-2020 Houston Police Department Data Compiled by JAD analysts. Monthly offenses were aggregated from daily incidents for the city of Houston and restricted to dates before March 2020. Shading indicates overall trend via local regression (LOESS), which essentially fits polynomial regressions to subsets of the data and joins them together.*

## Robberies

From 2015-2017, monthly robberies in Houston trended downward, with the exception of a large spike in late 2017 (see Figure 21). Following this spike, monthly robberies settled into a new normal of about 709 robberies per month – a historical low since 2015. This new normal appears to have lasted all of 2018 and early 2019. After the adoption of amended Rule 9, robberies rose again throughout 2019 but fell during the 2020 pandemic.

**FIGURE 21. MONTHLY ROBBERIES IN HOUSTON**

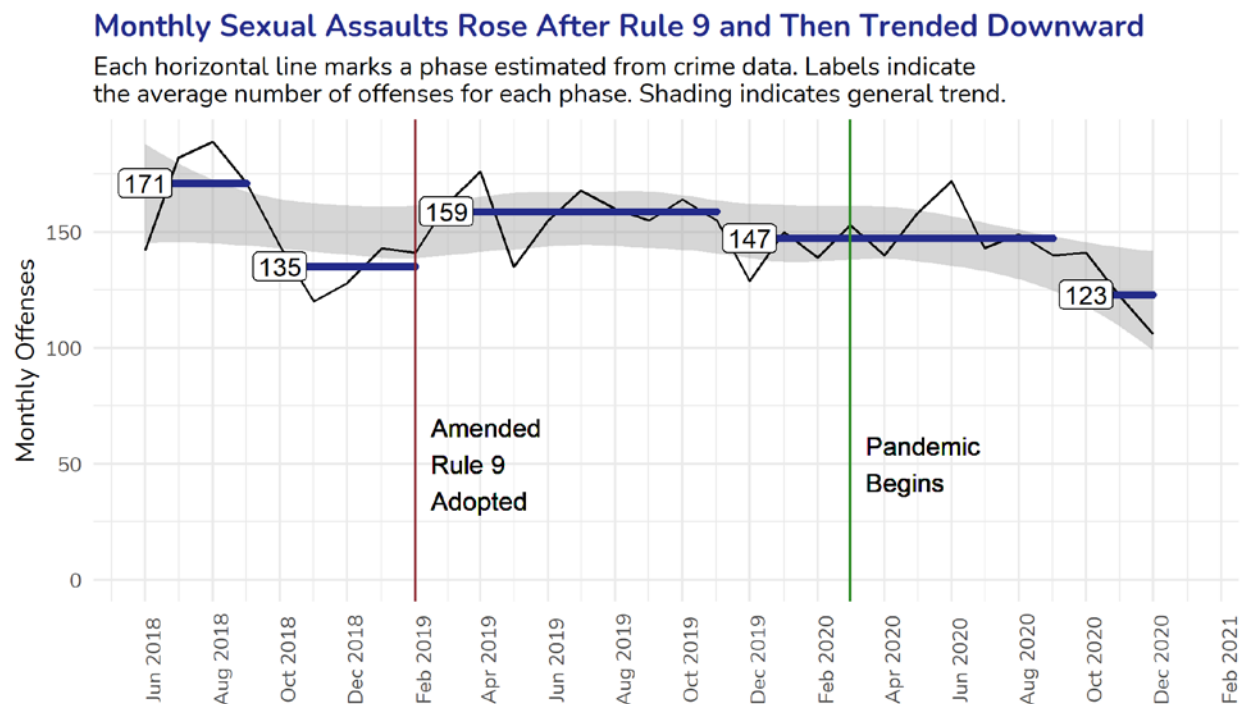


*Data Source: 2015-2020 Houston Police Department Data Compiled by JAD analysts. Monthly offenses were aggregated from daily incidents for the city of Houston and restricted to dates before March 2020. Shading indicates overall trend via local regression (LOESS), which essentially fits polynomial regressions to subsets of the data and joins them together.*

## Sexual Assaults

Data on sexual assaults in Houston are available only from June 2018 and December 2020, which means we cannot discern what trends were like before bail reform. That being said, we can see that sexual assaults in Houston have been decreasing (see Figure 22). There was an uptick in sexual assaults shortly after the adoption of amended Rule 9, revealing a higher new normal of about 159 monthly sexual assaults. Sexual assaults began falling again in late 2019 and continued to do so during the pandemic.

**FIGURE 22. MONTHLY SEXUAL ASSAULTS IN HOUSTON**

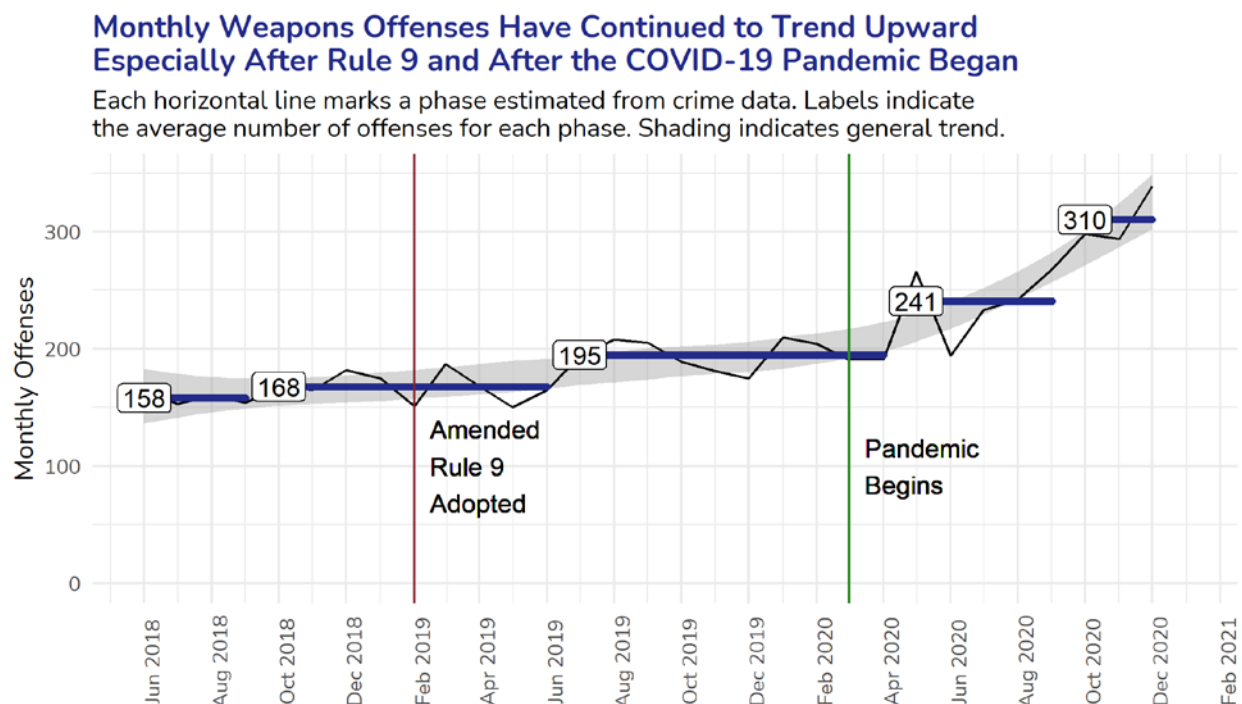


*Data Source: 2015-2020 Houston Police Department Data Compiled by JAD analysts. Monthly offenses were aggregated from daily incidents for the city of Houston and restricted to dates before March 2020. Shading indicates overall trend via local regression (LOESS), which essentially fits polynomial regressions to subsets of the data and joins them together.*

## Weapon Offenses

Data on weapon offenses in Houston are available only from June 2018 and December 2020, which means we cannot discern what trends were like before bail reform. But the trend is clear: steady increases from June 2018, followed by a sharper increase after the adoption of amended Rule 9 (see Figure 23). Indeed, this post-Rule 9 phase saw monthly weapon offenses increase by 16% compared with the previous phase. Monthly weapon offenses increased even more sharply during the pandemic; by the end of 2020, the average number of weapon offenses was double what it was in mid-2018.

FIGURE 23. MONTHLY WEAPON OFFENSES IN HOUSTON



*Data Source: 2015-2020 Houston Police Department Data Compiled by JAD analysts. Monthly offenses were aggregated from daily incidents for the city of Houston and restricted to dates before March 2020. Shading indicates overall trend via local regression (LOESS), which essentially fits polynomial regressions to subsets of the data and joins them together.*

## The Misdemeanor Bail Reform Has Not Been Limited to Misdemeanors

According to the JAD Memo (page 2):

The term bail reform refers to a series of policy changes that occurred between 2017 and 2019 that changed and expanded policy practices around misdemeanor bail reform almost exclusively.

These policy changes include the amendment of Local Rule 9, which eliminated the existing misdemeanor bail schedule (effective February 16, 2019). According to this amendment, all misdemeanor defendants must

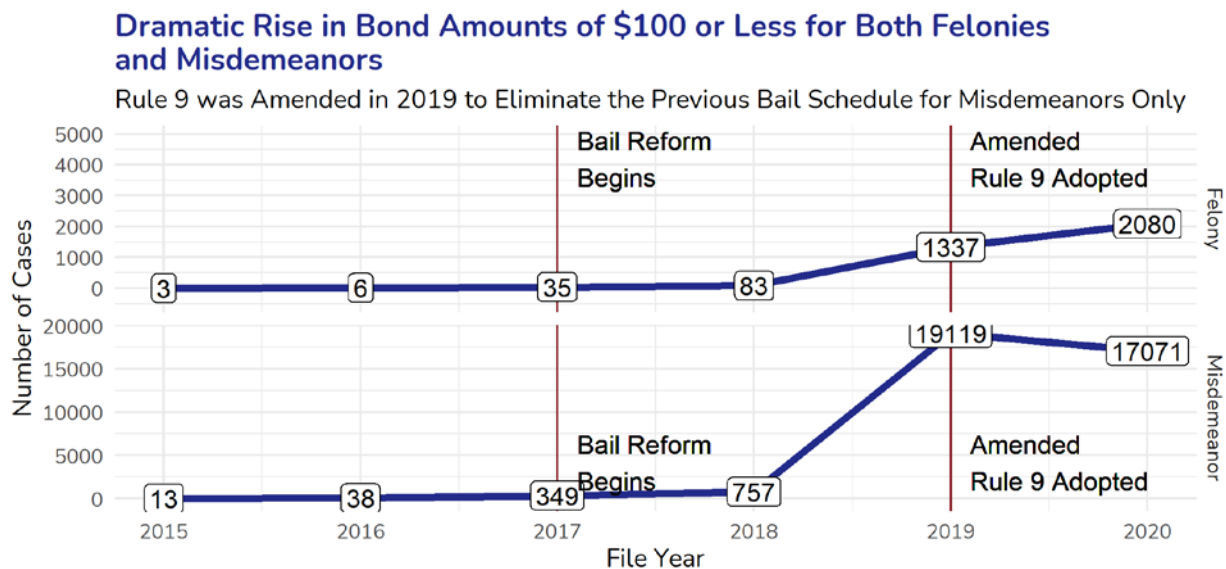
1. have bail amounts set initially at \$100 or less and
2. be “promptly released” on a personal bond

While these changes may have been formally limited to misdemeanor defendants, in practice, felony defendants have also experienced the outcomes of lower bond amounts and greater use of personal bonds.

### Low Bond Amounts for Both Felonies and Misdemeanors

Bond amounts of \$100 or less were very uncommon in 2015-2016, but - as expected - they became more common as bail reform began in 2017 and rose dramatically in 2019 for misdemeanor cases (see Figure 24).

**FIGURE 24. MORE BONDS OF \$100 OR LESS FOR FELONIES AND MISDEMEANORS AFTER MISDEMEANOR BAIL REFORM**



Source: JAD Report Dataset, felonies and misdemeanors filed from 2015 to 2020

However, this pattern also appears for felony cases: low bond amounts for felonies were also very rare before 2017 but they became more frequent as misdemeanor bail reform progressed from 2017-2019. As seen in Figure 24 above, there were only 35 felony cases with bail set at \$100 or less in 2017 but there were 2,080 such felony cases in 2020 – a 59-fold increase.

Before bail reform in 2017, low bonds were a negligible share of criminal cases, whether felony or misdemeanor (see Table 4). By 2020, however, low bonds were a majority of misdemeanor cases – an intended outcome that aligns with the goals of misdemeanor

bail reform. More surprising, however, is the growth in low bonds for felony cases, which were only 0.01% of felony cases in 2015 but rose to 4.64% in 2020.

**TABLE 4. FELONY AND MISDEMEANOR CASES WITH BOND AMOUNTS UP TO \$100**

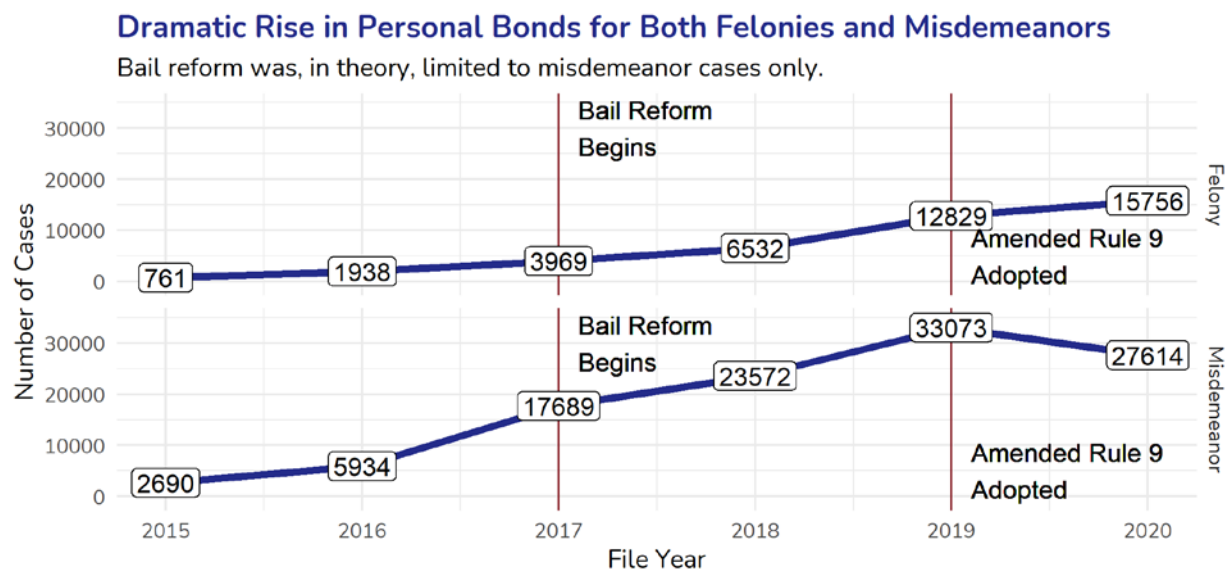
	Felony Cases with Bond Amounts Up to \$100	Percentage of Felony Cases	Misdemeanor Cases with Bond Amounts Up to \$100	Percentage of Misdemeanor Cases
2015	3	0.01%	13	0.03%
2016	6	0.02%	38	0.08%
2017 – Bail Reform Begins	35	0.09%	349	0.87%
2018	83	0.21%	757	1.91%
2019 – Rule 9 Adopted	1337	3.26%	19119	46.13%
2020	2080	4.64%	17071	52.11%

Source: JAD Report Dataset, 240,070 felonies and 238,614 misdemeanors from 2015 to 2020

### More Personal Bonds for Both Felonies and Misdemeanors

An intended outcome of amended Rule 9 is the increased use of personal bonds for misdemeanors. This outcome can be seen in the bottom panel of Figure 25 below, which shows a dramatic rise in the use of personal bonds for misdemeanors beginning in 2017:

**FIGURE 25. FELONY AND MISDEMEANOR CASES WITH PERSONAL BONDS**



Source: JAD Report Dataset, felonies and misdemeanors from 2015 to 2020

However, the use of personal bonds has also increased for felonies during the same time period. The upper panel of Figure 25 shows that while personal bonds were uncommon in 2015-2016, they have increased dramatically since misdemeanor bail reform began in 2017: from 3,969 felony cases to 15,756 felony cases. This is a 4-fold increase for felonies, despite not being the focus of misdemeanor bail reform.

### Similar Post-Bail Reform Crime Trends Are Not Found in Cities Used in the JAD Memo for Comparison

According to the JAD, other jurisdictions – namely, Chicago, Los Angeles, and Dallas – have also experienced rising violent crime and decreasing property crime during the same 2015-2020 period:

Despite the fact that many of these jurisdictions tabulate crimes slightly differently, and produce data at different stages in the process of prosecution, all three jurisdictions exhibit similar trends in crime to Harris County. Specifically, each jurisdiction exhibited a broad decline in murders before the COVID- 19 outbreak coincided with a sharp increase in murders coinciding with the beginning of the pandemic.

Additionally, there has been a years-long increase in aggravated assaults or equivalent incidents/charges in each jurisdiction. There has also been a recent decrease in crimes against property in each of the jurisdictions. The fact that other comparable jurisdictions that have not implemented misdemeanor bail reform, experienced increases in crime similar to Harris County, presents strong evidence that there is no relationship between the implementation of the policy and increased crime. (JAD memo, page 21)

These conclusions are not entirely supported by the JAD's own data analysis and data sources. Crime trends for Dallas do not include enough data before 2017. Also, Dallas has attempted some criminal justice reforms during the same time period so its value for comparison purposes is questionable. Los Angeles and Chicago crime trends do not align with Harris County bail reform events or with Houston crime trends.

#### **Dallas**

A key issue with comparing Dallas crime trends against Houston crime trends is that the JAD's crime data for Dallas is missing for crimes committed before 2017. So we do not know whether Dallas crime trends match up with Houston crime trends before Houston bail reform.

Nonetheless we can proceed with a limited comparison of Dallas and Houston crime trends during the bail reform and pandemic periods. Figure 26 compares crime trends for aggravated assaults, burglaries, and homicides in Dallas and Houston from 2017 to 2020:

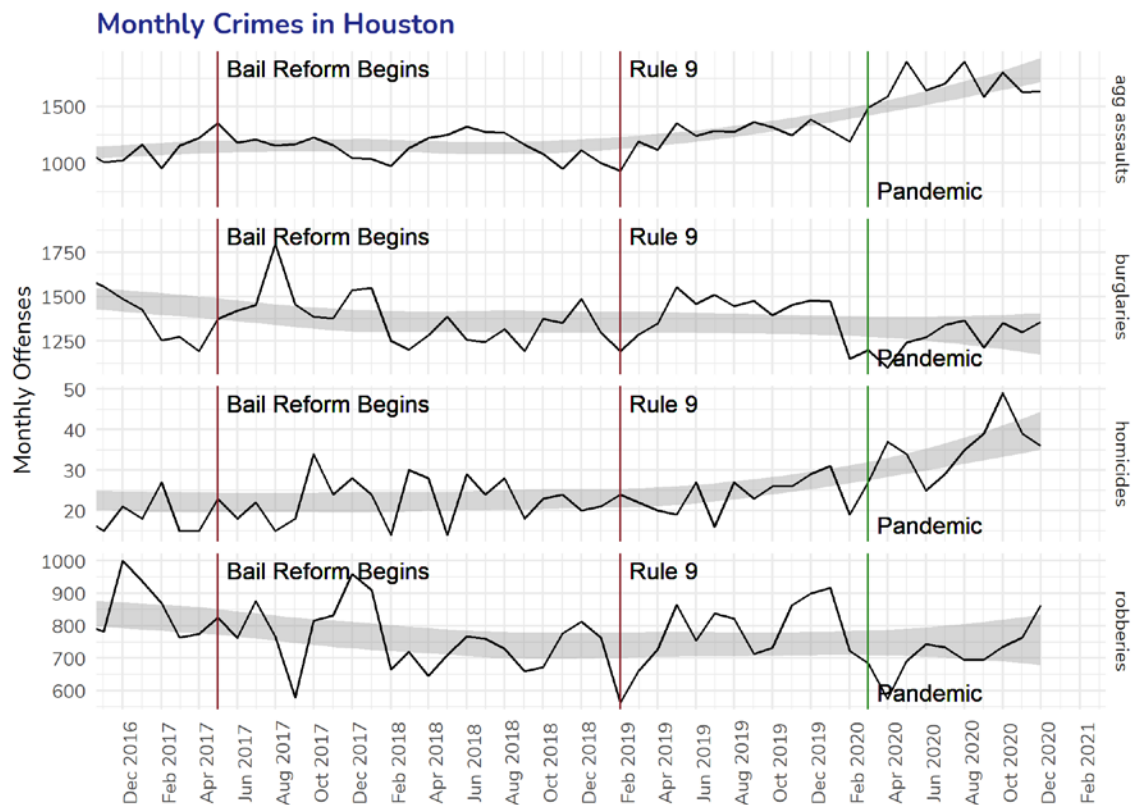
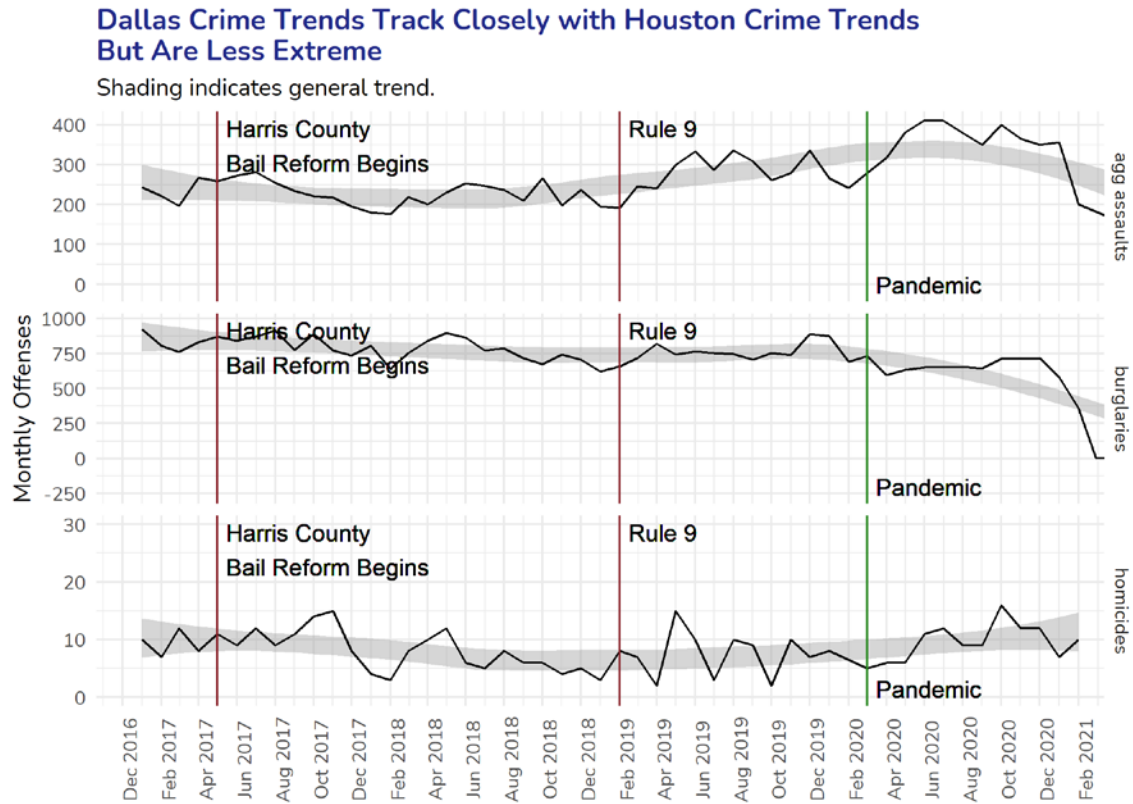


- For aggravated assaults, we can see that both Dallas and Houston have very similar increasing trends in aggravated assaults until the beginning of the pandemic. In 2020, aggravated assaults rose and leveled off in Dallas but Houston aggravated assaults continued to rise.
- For burglaries, we can see that both Dallas and Houston have very similar decreasing trends until and through the pandemic.
- For homicides, we see that Dallas experienced a drop in homicides following the initiation of bail reform in Houston in 2017, while Houston's homicides held steady during this period. In 2019, both cities experienced a rise in homicides, and in 2020, both cities saw even steeper rises in homicides. However, while Houston reached a 20-year high in homicides during the pandemic, Dallas did not.

For aggravated assaults, burglaries, and homicides, crime trends in Dallas and Houston roughly correspond until the pandemic began in 2020. The main difference has to do with the extremity of those trends during this limited period under consideration. Houston crime trends for aggravated assaults and homicides have reached a 20-year high, whereas Dallas has not.

However, it is important to note that bail reform efforts, including cash bail reductions, have been ongoing in Dallas County but have not yet been formalized.

FIGURE 26. DALLAS CRIME TRENDS



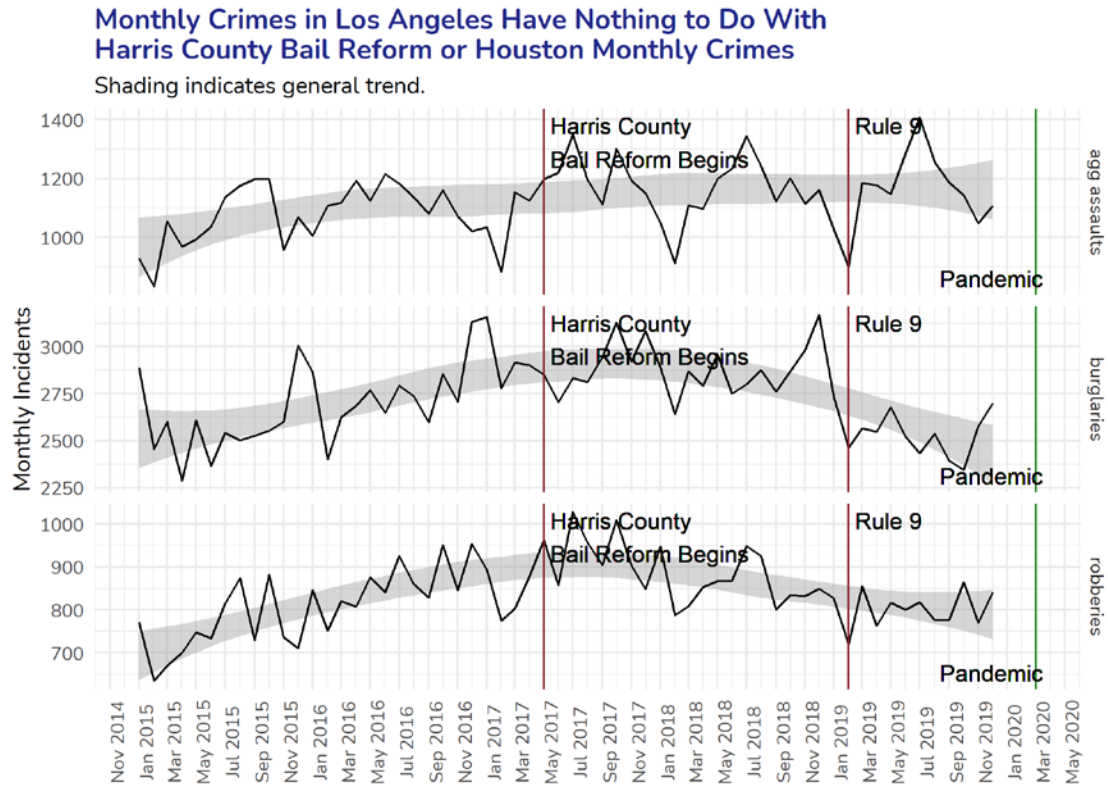
## Los Angeles

Homicide numbers are not available for Los Angeles so here we compare aggravated assaults, robberies, and burglaries for Los Angeles and Houston from 2015 to 2019. Data during the pandemic in 2020 are not available for Los Angeles.

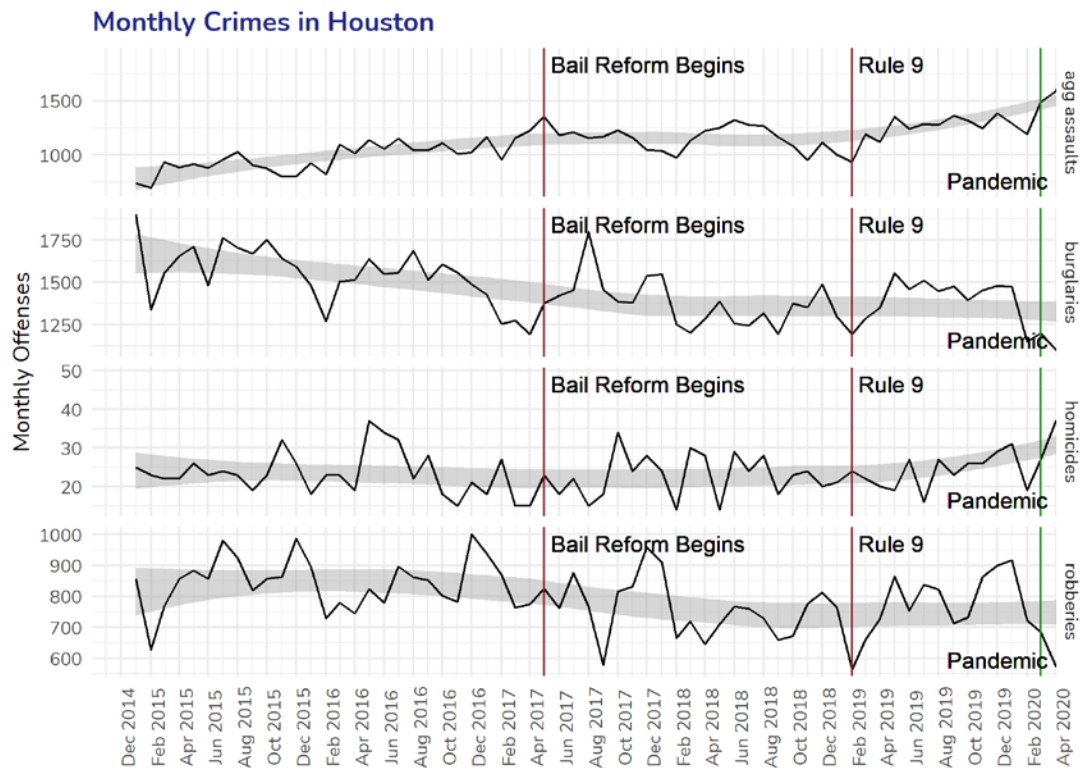
- Aggravated assaults for both Los Angeles and Houston were trending upward until about mid-2019. Afterward, aggravated assaults in Los Angeles dropped while Houston aggravated assaults continued to trend upward.
- For burglaries, the trends for Los Angeles and Houston are very different. Los Angeles saw an increasing trend in burglaries through 2017, after which burglaries began declining and – with the exception of a spike in late 2018 – continued to do so through 2019. Whereas Houston experienced a rise in burglaries after the adoption of amended Rule 9 in early 2019, Los Angeles did not.
- For robberies, the trends for Los Angeles and Houston are also very different. Los Angeles saw an upward trend in robberies from 2015 through 2017, after which robberies began declining and continued to do so through 2019. Whereas Houston experienced a rise in robberies after the adoption of amended Rule 9 in early 2019, Los Angeles did not.

Given the different trends for Houston and Los Angeles, the crime situation in these two cities appear very different and offer little support for the idea that they share nationwide pressures driving up crime before the pandemic.

FIGURE 27. LOS ANGELES CRIME TRENDS



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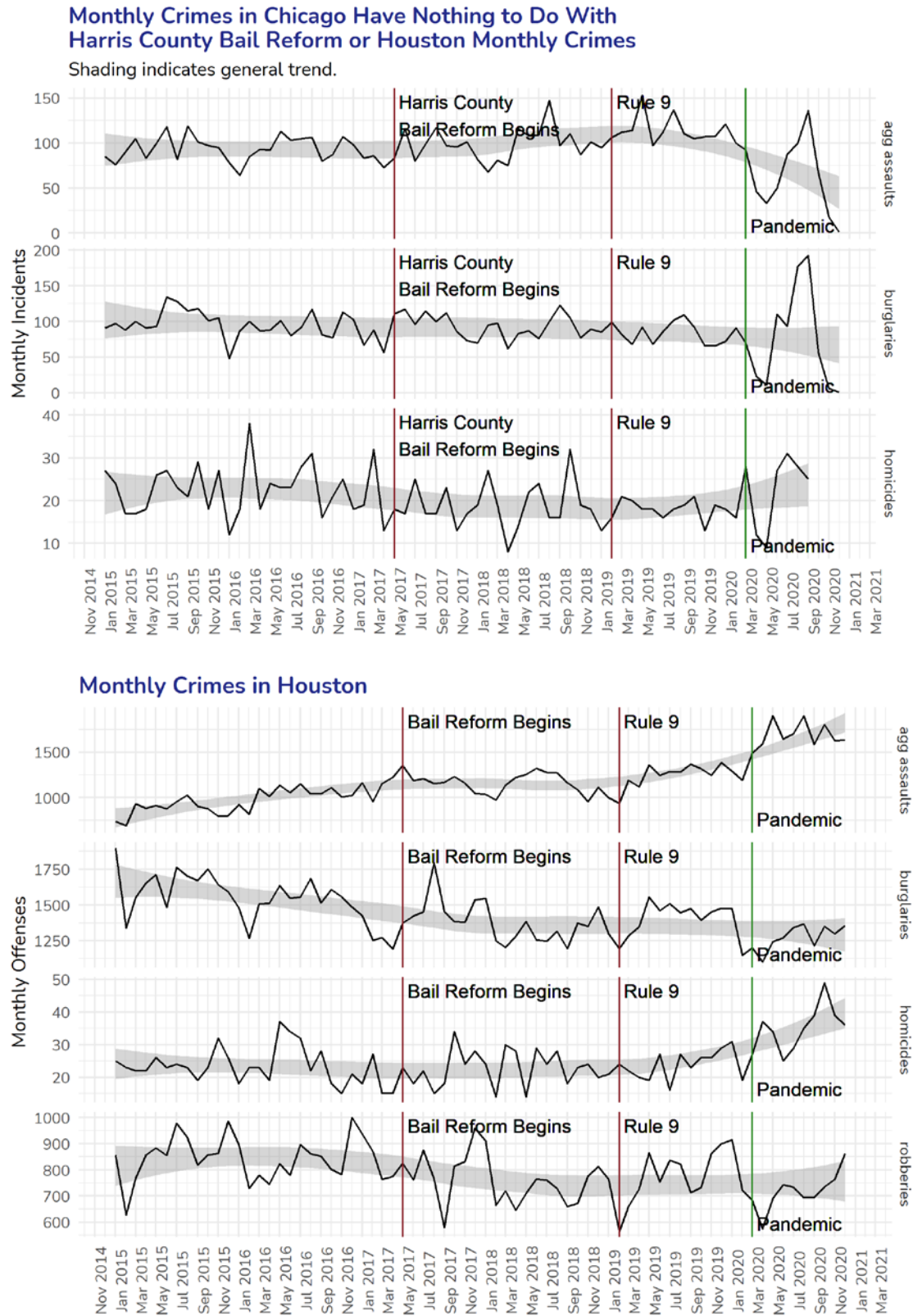
## Chicago

Before 2020, crime trends in Chicago and Houston are quite different.

- For aggravated assaults, Chicago has been holding steady from 2015 to about mid-2018, when it rose slightly. Afterward, aggravated assaults held steady until dropping in 2019. This decreasing trend continued until mid-2020, when it spiked. In contrast, Houston aggravated assaults trended upward during this entire period.
- Both Chicago and Houston experienced general declining trends in burglaries. During the pandemic, Chicago experienced a sharp increase in burglaries in mid-2020, whereas Houston did not.
- For homicides, Chicago and Houston have similar trends. However, while Houston experienced a slight uptick in homicides after the adoption of amended Rule 9, Chicago did not.

Given the different trends for Houston and Chicago, the crime situation in these two cities appear very different and offer little support for the idea that they share nationwide pressures driving up crime before the pandemic.

FIGURE 28. CHICAGO CRIME TRENDS



Since all cities considered in this section experienced rises in homicides (with the exception of Los Angeles, for which there was no homicide data) and in aggravated assaults during the pandemic, there is evidence that the pandemic – which all cities experienced – played a big role in those increases. However, crime trends for all cities were different before 2020, and only Houston shows a consistent uptick in crime during bail reform. Furthermore, despite the JAD’s claim that rising crime rates have more to do with pandemic-related socioeconomic pressures, the JAD’s property crime data for Dallas, Los Angeles, and Chicago fail to show that property crimes have increased during the pandemic. Taken together, despite the JAD’s claim that rising crime in Harris County have more to do with nationwide socioeconomic pressures than with local bail reform, a closer look at the cross-jurisdictional data it provided shows that the cause was neither nationwide nor socioeconomic.

## **Conclusion**

This study presents a closer look at the data and findings presented in the JAD memo and monitor reports. Our findings do not support the narrative presented in those reports but are contrary to them: our analysis of the data and metrics they provided show that there is evidence that misdemeanor bail reform in Harris County is associated with lower community safety via higher recidivism and higher crime levels. It has also undermined the integrity of the bail system through high bond failures.

## Appendix A: JAD Dataset

The offense dataset obtained from the JAD on April 2021 consists of 480,279 cases filed between January 1, 2015 and April 18, 2021. The JAD also shared this dataset with the monitor team for its analyses. Whether a case is coded as a felony or misdemeanor is based on the primary offense level determined at booking.

Using this dataset and the code provided by JAD analysts, we were able to replicate most of the figures and tables reported in the JAD memo and monitor reports.

### Felony and Misdemeanor Cases per Year

	Felony	Misdemeanor	Other	Total
2015	35726	39365	1	75092
2016	39739	45459	0	85198
2017	38084	40040	1	78125
2018	40023	39541	1	79565
2019	41241	41448	5	82694
2020	45257	32761	2	78020
2021*	1318	267	0	1585
<b>Total</b>	241388	238881	10	480279

\* Only cases from January 1, 2021 to April 18, 2021 are available for file year 2021.

### Number of Bonds by Year

	Cash	Surety	Personal	Other	No Bond	Total
2015	1096	28917	3451	8	41620	75092
2016	1950	34066	7872	8	41302	85198
2017	1472	26336	21658	5	28654	78125
2018	1552	24595	30105	1	23312	79565
2019	1745	19030	45906	5	16008	82694
2020	1208	20002	43370	0	13440	78020
2021*	18	505	504	0	558	1585
<b>Total</b>	9041	153451	152866	27	164894	480279

\* Only cases from January 1, 2021 to April 18, 2021 are available for file year 2021.



## Number of Bonds by Description and Type

BOND DESCRIPTION		BOND TYPE				
		Cash	Surety	Personal	Other	No Bond
	(BLANK)	0	0	0	0	164894
	APPEAL	0	0	0	26	0
	CASH	9018	0	0	0	0
	CASH APPEAL	10	0	0	0	0
	CASH BOND REFUND	5	0	0	0	0
	CASH BOND TRANSFER	2	0	0	0	0
	DEFAULT CASH BOND APPLIED	6	0	0	0	0
	EARLY PRESENTMENT - PTRL	0	0	19291	0	0
	GENERAL ORDER BOND - PTRL	0	0	45581	0	0
	GENERAL ORDER BOND - PTRL (COVID-19)	0	0	52	0	0
	HABEAS CORPUS	0	0	0	1	0
	PERSONAL PTR	0	0	75895	0	0
	PERSONAL RECOGNIZANCE	0	0	94	0	0
	SB7 - PTRL	0	0	952	0	0
	SURETY	0	153451	0	0	0
	UNSECURED BAIL BOND-SHERIFF	0	0	11001	0	0
	TOTAL	9041	153451	152866	27	164894

## Appendix B: Unpublished Recidivism Rates Calculated by the Monitor Team Show Rising Recidivism Since Bail Reform

In a letter dated August 27, 2021, the monitor team responded to a public information request from the Harris County District Attorney's Office for clarification and additional information regarding the findings in the monitor reports. The letter confirmed two important facts:

1. The monitor team did not use any exclusionary or inclusionary criteria for the misdemeanor cases used in the calculation of the recidivism rates published in the monitor reports:

We did not use different criteria for case selection, nor did we remove any cases or select different types of cases to determine recidivism in the second report. (August 27, 2021 letter, page 2)

The result of using these overly broad calculations is that the monitor reports showed recidivism has remained steady or declined slightly since bail reform.

2. The monitor team calculated and provided additional recidivism rates broken down by whether defendants were on bond (i.e., initial bond filed or no initial bond filed) and by bond type (i.e., cash, personal, or general order bond). These detailed recidivism rates support the findings described in this report: Namely, recidivism rates for defendants who were actually on bond have risen substantially, and recidivism rates for defendants on personal bonds in particular have soared after bail reform. The monitor team explained that they did not publish these detailed calculations due to various concerns.

This appendix provides copies of these detailed recidivism rates from the monitor team's August 27 letter as well as plots based on those rates.

According to the August 27 letter, the monitor team's analyses relied on District Court data, which were shared by Office of Court Management (OCM) with other County agencies. The OCM has begun publishing some of these [data online](#). The monitor team also noted that the underlying dataset is also available from the Justice Administration Department (JAD).<sup>8</sup> The detailed recidivism rates in the August 27 letter were case-level recidivism rates, which were calculated as follows:

Our definition of a "case" was extremely broad. As we explained in our report, a repeat "case" includes another case against the person filed on the same day, or

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<sup>8</sup> This JAD dataset is the dataset used in the follow-on analyses in the main sections of this report.

subsequently. Thus, a person could have three cases filed against them on the same date and each added filing is counted as a repeat “case.” We also count as a repeat case, a case on a later date that is filed within 90 days, or within 180 days, or within a year of the first case. Thus, if a person had two additional cases filed on the same date – and one additional case within 90 days, one additional case within 180 days, and one additional case within 365 days – then that person would have five “repeat” offenses each separately counted in addition to the initial filing. (August 27, 2021 letter, page 2)

The monitor team did not provide offender-level recidivism rates in their August 27 letter. Nevertheless, their detailed case-level recidivism rates show the same pattern as the detailed offender-level recidivism rates reported in this report (see *Recidivism Has Increased Substantially Since Bail Reform*): recidivism has risen substantially since bail reform took place in Harris County.

### Unpublished Recidivism Rates for Cases Involving Defendants Actually on Bond (Versus Defendants Not on Bond) Have Gone Up

The monitor team’s August 27 letter reported the following table showing recidivism rates for cases involving defendants not on bond (Initial Bond Filed = No) versus cases involving defendants on bond (Initial Bond Filed = Yes) from 2015 to 2019. This table is reproduced below:

**TABLE B1. RATES AND NUMBERS OF REPEAT CASES FOR PERSONS ON BOND VERSUS NOT ON BOND**

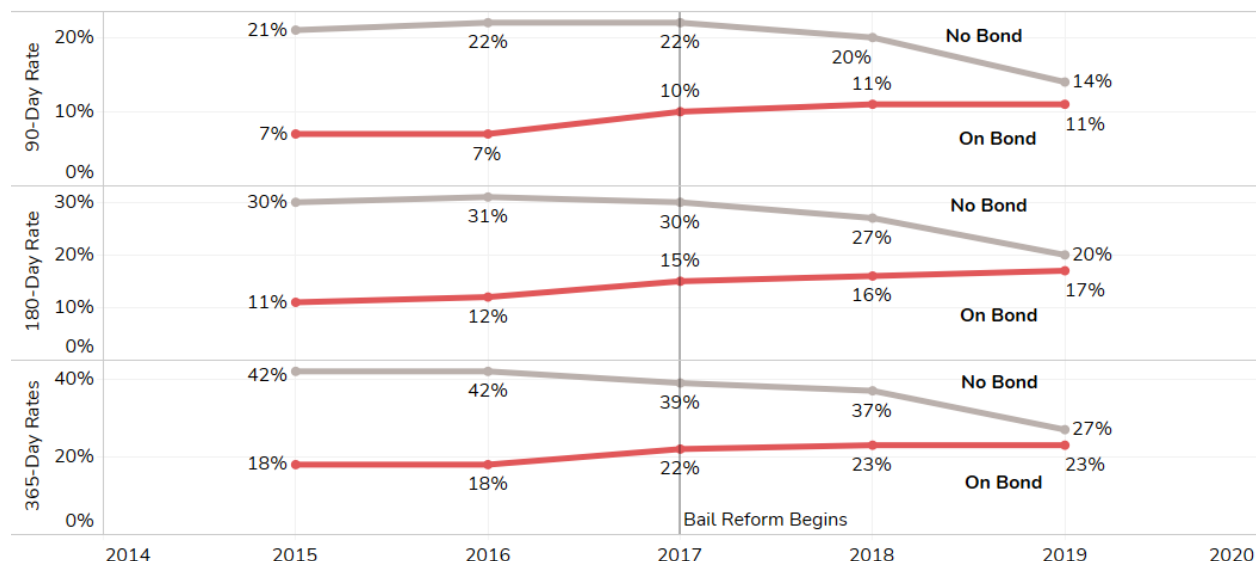
Year	Initial Bond Filed	Obs.	Number of Misd. Cases with a New Case Filed within					
			(a) 90 Days		(b) 180 Days		(c) 365 Days	
2015	No	24932	5287	(21%)	7559	(30%)	10351	(42%)
2016	No	24184	5361	(22%)	7577	(31%)	10108	(42%)
2017	No	13153	2906	(22%)	3907	(30%)	5146	(39%)
2018	No	10392	2085	(20%)	2839	(27%)	3801	(37%)
2019	No	6880	977	(14%)	1376	(20%)	1848	(27%)
2015	Yes	37868	2640	(7%)	4347	(11%)	6879	(18%)
2016	Yes	37583	2728	(7%)	4330	(12%)	6663	(18%)
2017	Yes	40444	4043	(10%)	6128	(15%)	9015	(22%)
2018	Yes	45410	5125	(11%)	7487	(16%)	10529	(23%)
2019	Yes	45683	5147	(11%)	7598	(17%)	10610	(23%)

We can see from Table B1 that recidivism rates involving bonded defendants were about the same from 2015 to 2016 (before bail reform) but have risen substantially since bail reform began in 2017. By plotting these rates, the pattern is clear (see Figure B1).

**FIGURE B1. RECIDIVISM RATES FOR BONDED VERSUS UNBONDED MISDEMEANOR CASES**

## Monitor Team's Unpublished Case-Level Recidivism Rates: Repeat Offenses Within 90 Days, 180 Days, 365 Days Have Gone Up for Bonded Misdemeanor Defendants Since Bail Reform

Data Source: Monitor Team's Response to HCDAO PIA (Letter August 27, 2021.pdf)



For misdemeanor cases involving defendants on bond,

- The recidivism rate rose from 7% before bail reform to 10-11% since bail reform for 90-day recidivism. That's a 57% increase in the recidivism rate from 2015 to 2019.
- The recidivism rate rose from 11-12% before bail reform to 15-17% since bail reform for 180-day recidivism. That's a 55% increase in the recidivism rate from 2015 to 2019.
- The recidivism rate rose from 18% before bail reform to 22-23% since bail reform for 365-day recidivism. That's a 28% increase in the recidivism rate from 2015 to 2019.

By looking at the absolute number of repeat offenses in Table B1, we can see that the increases in rates are accompanied by very large increases in the actual number of repeat offenses:

- For 90-day recidivism, the number of repeat offenses has risen from 2,640 cases in 2015 to 5,147 cases in 2019. That's almost double the number of repeat offenses.
- For 180-day recidivism, the number of repeat offenses has risen from 4,347 in 2015 to 7,598 in 2019. That is a 75% increase.

- For 365-day recidivism, the number of repeat offenses has risen from 6,879 cases in 2015 to 10,610 cases in 2019 – a 54% increase.

### Unpublished Recidivism Rates for Cases Involving Personal Bonds Have Gone Up

The monitor team's August 27 letter reported the following table showing recidivism rates for cases broken down by bond type from 2015 to 2019. This table is reproduced below:

**TABLE B2. RECIDIVISM RATES FOR MISDEMEANOR CASES BY BOND TYPE**

Year	Initial Bond Type	Obs.	Number of Misd. Cases with a New Case Filed within					
			(a) 90 Days		(b) 180 Days		(c) 365 Days	
2015	Cash	33062	2361	(7%)	3870	(12%)	6115	(18%)
2016	Cash	31193	2300	(7%)	3633	(12%)	5520	(18%)
2017	Cash	21796	1357	(6%)	2162	(10%)	3383	(16%)
2018	Cash	19185	1236	(6%)	1922	(10%)	2933	(15%)
2019	Cash	10132	683	(7%)	1101	(11%)	1678	(17%)
2015	PR	4806	279	(6%)	477	(10%)	764	(16%)
2016	PR	6390	428	(7%)	697	(11%)	1143	(18%)
2017	PR	18648	2686	(14%)	3966	(21%)	5632	(30%)
2018	PR	26225	3889	(15%)	5565	(21%)	7596	(29%)
2019	PR	10406	1519	(15%)	2250	(22%)	3100	(30%)
2015	GOB	N/A	N/A		N/A		N/A	
2016	GOB	N/A	N/A		N/A		N/A	
2017	GOB	N/A	N/A		N/A		N/A	
2018	GOB	N/A	N/A		N/A		N/A	
2019	GOB	25145	2945	(12%)	4247	(17%)	5832	(23%)

The percentages for 90-, 180-, and 365-day recidivism in Table B2 show that while rates for cases involving cash bonds have held steady or declined slightly, the rates for personal bonds ("PR" bonds) have risen substantially. Again, we can plot these rates for a better look at the trends:

FIGURE B2. RECIDIVISM RATES FOR MISDEMEANOR CASES BY BOND TYPE

## Monitor Team's Unpublished Case-Level Recidivism Rates: 90-Day, 180-Day, 365-Day Recidivism Rates Have Gone Up for Personal Bonds

Data Source: Monitor Team's Response to HCDAO PIA (Letter August 27, 2021.pdf)

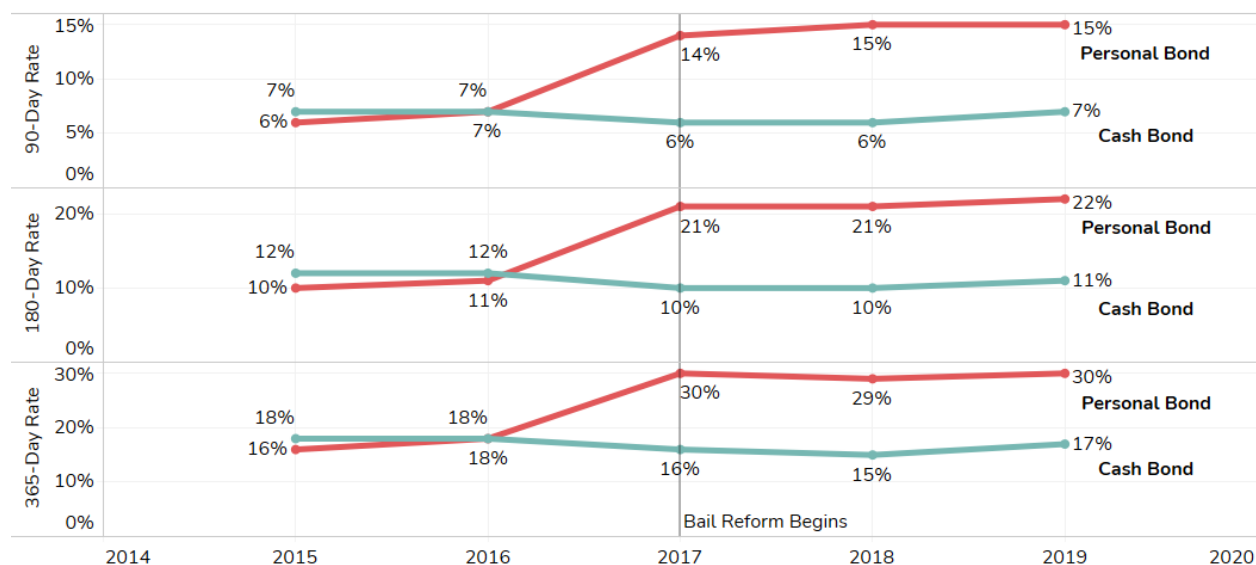


Figure B2 shows that while recidivism rates were steady before bail reform, they have almost doubled for cases involving personal bonds for 90-, 180-, and 365-day recidivism.

- The recidivism rate rose from 6-7% before bail reform to 14-15% since bail reform for 90-day recidivism for cases involving personal bonds. That means the rate has doubled.
- The recidivism rate rose from 10-11% before bail reform to 21-22% since bail reform for 180-day recidivism for cases involving personal bonds. That is a 120% increase from 2015 to 2019.
- The recidivism rate rose from 16-18% before bail reform to 29-30% since bail reform for 365-day recidivism for cases involving personal bonds. That is an 88% increase from 2015 to 2019.

Because bail reform has increased the use of personal bonds for misdemeanors, the higher recidivism rates associated with personal bonds are accompanied by even more dramatic increases in the actual number of repeat offenses. Table B2 shows that

- For 90-day recidivism, the number of repeat offenses involving personal bonds has risen from 279 cases in 2015 to 1,519 cases in 2019. That's more than 5 times the number of repeat offenses in 2015.

- For 180-day recidivism, the number of repeat offenses involving personal bonds has risen from 477 cases in 2015 to 2,250 cases in 2019. That is a 372% increase.
- For 365-day recidivism, the number of repeat offenses involving personal bonds has risen from 764 cases in 2015 to 3,100 cases in 2019. That is a 306% increase from 2015 to 2019.

While these dramatic increases in 90-, 180-, and 365-day recidivism were calculated by the monitor team, they were not included in the first or second monitor reports. Instead, the monitor reports showed only the overall recidivism rates – which included bonded and unbonded cases – that the monitor team claims were steady or slightly decreasing from 2015 to 2019.

## **ACKNOWLEDGEMENTS**

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