

YOLO COUNTY: REVISED POSTED BAIL VS ZERO BAIL ANALYSIS

Yolo County District Attorney's Office

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BACKGROUND

Bail is an amount of money, bond or other type of security that can, in most cases, be deposited with the court by a person who has been arrested and/or charged with a crime, in order to be released from jail and/or remain out of custody until the final disposition of their criminal case or further order of the court. Presumptive bail amounts for specific offenses and enhancements are generally determined pursuant to an annual uniform county bail schedule created by the superior court in each county. After a person is arrested, but before their first appearance in court, they may be able to post the bail amount listed in the bail schedule to secure their release. At the person's first court appearance, the court may: 1) increase, lessen, modify or deny bail; 2) authorize the release of an individual on their own recognizance (OR release) with or without conditions or; 3) release the individual under supervision. Bail amounts and release decisions by the court are typically based on considerations such as: 1) the seriousness of the charged offenses; 2) the defendant's prior criminal record; 3) the probability of the defendant appearing in court if released; 4) the safety of the victim or victim's family; 5) protection of the public and; 6) the defendant's ability to pay.

In early 2020, the World Health Organization, the United States Centers for Disease Control and Prevention, and the State of California declared that the world, country, and state faced a life-threatening pandemic caused by the Covid-19 virus. At that time, there were more than 40,000 confirmed cases of Covid-19 and 500 deaths in the United States. On March 04, 2020, California Governor Gavin Newsom declared a state of emergency. This was followed on March 19, 2020, with an executive order to stay at home.

In an attempt to prevent the transmission and spread of Covid-19 amongst prisoners and jail staff, a statewide "Emergency Bail Policy" was enacted on April 6, 2020, by the California Judicial Council. The Emergency Bail Policy set bail at \$0 (zero dollars) for most misdemeanors and non-violent felonies, with exceptions specifically listed. As a result, most people arrested for qualifying crimes were immediately released from jail after booking without conditions and without further inquiry by the courts. The Emergency Bail Policy was to be in effect for 90 days after the Governor declared the state of emergency lifted.

On June 20, 2020, California's Judicial Council ended the statewide Emergency Bail Schedule, however, individual counties were allowed to make their own decision about keeping similar measures in place. The Yolo County Superior Court opted to continue the use of its own emergency zero bail schedule until May 31, 2021.

This study looks at a random sample of 100 arrested individuals who were released under emergency zero bail in Yolo County and compared their recidivism with a random sample of 100 similarly situated individuals who posted bail in Yolo County between August 2016 to August 2018.

REASON FOR A REVISED STUDY

The original study, from February 2023, looked at random samples of people who were released during emergency zero bail compared to a random sample of people who were arrested for similar charges between January 2018 and December 2019 and posted bail for their release. The study examined recidivism in each group for 18 months after their release. A potential factor that may have affected recidivism was later realized in that of the group that posted bail, those that were released after October 06, 2019, had their recidivism period overlap with the emergency zero bail period. As there was no way to determine whether the emergency zero bail influenced any of this sample regarding recidivism, the study was done again, this time with a random sample of people who posted bail for similar crimes and were released between August 01, 2016, and July 31, 2018. This earlier sample ensured that the recidivism period ended not only prior to the enactment of emergency zero bail, but also before the Covid 19 pandemic was a public concern.

Note that on the original study from February 2023, only two of the randomly selected people who posted bail were released after October 06, 2019. Of those two, one person had no arrests during the study period, and the other had one arrest in November 2019, well before the Covid 19 pandemic began.

As each of the studies used a random sampling of people, there are natural differences in statistics between the two studies. This can be explained both by randomness, and by a myriad of differences in society, economy, and other influences of a different time period.

SYNOPSIS

Recidivism over both a 12 month and an 18 month period was examined for a random sample of 100 arrested individuals who posted bail between August 01, 2016 and July 31, 2018, compared to a random sample of 100 arrested individuals who were released on zero bail between April 19, 2020, and May 31, 2021. Offender demographics and original offenses were similar for the comparison groups considering random selection. Recidivism was counted if the individual was arrested anywhere within either 12 or 18 months, for at least one new crime, after being previously released.

In this study, individuals released on zero bail were subsequently rearrested for a total of **169% more crimes** than individuals released on bail.

The average recidivism rate for those released on zero bail was **78% over 18 months**, while the average recidivism rate for **those released on bail was only 33% to 44%**. Thus, arrested individuals released on **zero bail reoffended at an average rate that was 77% to 136% higher** than arrestees who posted bail.

Additional highlights/averages:

- **More new felonies** - Individuals released on zero bail committed new felonies 103% more often than those who posted bail.
- **More new misdemeanors** - Individuals released on zero bail committed new misdemeanors 130% more often than those who posted bail.
- **More multiple arrests** - Individuals released on zero bail were rearrested more than once in eighteen months 169% more often than those released on bail.
- **More new violent offenses** - Individuals released on zero bail committed new violent offenses 175% more often than those who posted bail.

There were many notable differences between those who posted bail and those who were released on zero bail in nearly every metric.

DEFINITIONS

The following terms used in this report will be defined as follows:

Bail: The amount of money, bond or other security that an accused person may deposit with the court to be released from jail until their criminal matter is resolved. Bail is reimbursed at the conclusion of the case.

Bail Schedule: What is used to fix an amount of bail upon which a person who is arrested without a warrant may be released from custody prior to the appearing in court and/or until the final disposition of their criminal matter, unless otherwise ordered by the court. The Superior Court of every county has a duty to prepare, adopt and annually revise a uniform county bail schedule.

Emergency Zero Bail: In April 2020, the California Judicial Council imposed a statewide Emergency Bail Schedule, commonly referred to as Zero Bail. This allowed individuals accused of certain crimes to be immediately released from custody without the payment of bail money or bond. Yolo County Superior Court kept an Emergency Zero Bail Schedule until June 2021, when a new bail schedule was enacted.

Arrests: For the purpose of this report, the only arrests that will be considered are arrests for fresh charges. Arrests based on warrants, failure to appear, or probation or parole violations are not included. Note that a probation or parole violation may be based on a fresh charge, so in that case the fresh charge would be counted. An arrest is one incident. There may be several criminal charges within one arrest.

The only arrests considered in this report were those made within 18 months after the date the individual was released either by posting bail or under emergency zero bail. Arrests were determined by examining each individual's Department of Justice Arrest Sheet, and thus includes arrests made outside of Yolo County.

Misdemeanor Arrests: An arrest that included misdemeanor charges, other than those that were for warrants or probation or parole violations.

Felony Arrests: An arrest that included felony charges, other than those that were for warrants or probation or parole violations.

Crimes Against: Misdemeanor and Felony arrests are divided into three categories based on who the victim of the crime is:

- **Persons:** An illegal activity that directly endangers a specific person(s). For example, assault or robbery.

- **Property:** An illegal activity that involves property, but people are not physically endangered. For example, theft or vandalism.
- **Society:** An illegal activity without a specific victim. For example, possession of narcotics or driving under the influence.

Sex: Sex was determined according to the individual's booking information at the time of the arrest. Categories are Female or Male. Gender is not tracked on the Yolo County Jail inmate information, and thus is not included in this report.

Race: Race was determined according to the individual's booking information at the time of the arrest. The four categories used in this report are Black, Hispanic, White, and All Other Races combined.

Days to Arrest: This is the number of days between when an individual was released on bail until the date of their first rearrest. Subsequent rearrests were not counted in days.

Risk Assessment Tools: Tools used by judges to assess if an arrested individual poses a risk to public safety or a flight risk when determining whether to release an individual on their own recognizance or setting bail. Individuals on Emergency Zero Bail were released without any conditions and without any type of risk assessment being conducted.

METHODOLOGY

Between April 19, 2020, and May 31, 2021, there were 595 unique individuals that were released from the Yolo County Jail under the Emergency Zero Bail schedule, which did not require any form of cash or security collateral.

A query was run for people who posted bail in Yolo County, whether it was by cash, securities, or use of a bail bond company, between August 01, 2016, and July 31, 2018. The query was limited to the most common charges that would have qualified for \$0 bail had they been arrested during the emergency bail period. The list was not every single person who posted bail, as there were many charges which did not qualify for \$0 bail. Similarly, the list did not necessarily collect every person who posted bail on what would have been a \$0 bail charge, as there were numerous charges that could have qualified for \$0 bail. The list of charges used in the query is included in Appendix B of this report.

A random sample of 100 individuals was selected from each group – those who posted bail, and those released on emergency zero bail – using a random number generator. Information was collected on each of the 200 people that included their release date and their sex and race. The California Department of Justice (DOJ) criminal history records for each person was examined. The following information was collected from DOJ records:

- Any arrests within 1 year or within 548 days (18 months) of their release date, excluding warrants or probation or parole violations. A probation or parole violation is often related to a fresh charge, which would be counted.
- The date of the first arrest following their release.
- The total number of arrest incidents during the 12- or 18-month period.
- If the individual was arrested on misdemeanor and/or felony charge(s).
- Whether the charges were a crime against persons, property, or society.
- Each arrest incident was counted once, regardless of the number of charges on that arrest. However, each charge, other than warrants or violations, was counted towards type of crime regarding felony or misdemeanor, and victim type.

SAMPLE GROUP DEMOGRAPHICS

This report does not include any identifying information about any individual in the study, just general information on the entire sample group. The demographics of the three sample groups were:

DEMOGRAPHICS	POSTED BAIL 2018-2019 (2023 Study)	POSTED BAIL 2016-2018 (2024 Study)	RELEASED ON ZERO BAIL
Female	21%	34%	14%
Male	79%	66%	86%
Average Age at Release	33.6	35.3	34.2
Black	14%	12%	16%
Hispanic	41%	30%	36%
White	36%	44%	39%
All Other Race(s)	8%	14%	9%

The primary charge for which the individual was originally arrested, leading to their bail, was examined. This is only the most serious charge on the arrest. Many people are arrested for more than one charge. The most serious was determined where felony is more serious than misdemeanor, and crimes against persons are more serious than property, which are more serious than against society. No further analysis was done on the initial charge other than noting it:

PRIMARY CHARGE TYPE	POSTED BAIL 2018-2019 (2023 Study)	POSTED BAIL 2016-2018 (2024 Study)	RELEASED ON ZERO BAIL
Abuse	1%	2%	2%
Burglary	17%	5%	11%
Drugs	23%	29%	19%
Theft	31%	31%	21%
Vandalism	12%	13%	18%
Vehicle Theft	8%	5%	16%
Weapons	7%	14%	10%
Other	0%	1%	3%

RECIDIVISM AFTER RELEASE

Recidivism with fresh charges was tracked during the 12 or 18 months after release. The recidivism rate was for those who posted bail compared to those released on emergency bail.

RECIDIVISM WITHIN 1 YEAR OF RELEASE	POSTED BAIL 2018-2019 (2023 Study)	POSTED BAIL 2016-2018 (2024 Study)	RELEASED ON ZERO BAIL
Individuals arrested w/ in one year after release	37%	29%	71%
Individuals not arrested again	63%	71%	29%
Individuals rearrested more than once	12%	11%	49%
Total Number of Separate Arrests	64	48	190
Average Number of Arrests by Rearrestees	1.7	1.7	2.7

RECIDIVISM WITHIN 18 MONTHS OF RELEASE	POSTED BAIL 2018-2019 (2023 Study)	POSTED BAIL 2016-2018 (2024 Study)	RELEASED ON ZERO BAIL
Individuals arrested w/ in 18 months after release	44%	33%	78%
Individuals not arrested again	56%	67%	22%
Individuals rearrested more than once	23%	14%	62%
Total Number of Separate Arrests	96	62	259
Average Number of Arrests by Rearrestees	2.2	1.9	3.3

RECIDIVISM - DAYS TO FIRST ARRESTS

Of the people who were arrested within 12 or 18 months after release, the average number of days until their first arrest was higher for those who posted bail compared to those released on zero bail.

DAYS TO REARREST	POSTED BAIL 2018-2019 (2023 Study)	POSTED BAIL 2016-2018 (2024 Study)	RELEASED ON ZERO BAIL
Average days to rearrest	200	172	127
Individuals arrested within 1 day	0%	0%	5%
Individuals arrested within 7 days	0%	1%	9%
Individuals arrested within 30 days	8%	5%	16%
Individuals arrested within 180 days	26%	20%	57%
Individuals arrested within one year	37%	29%	71%
Individuals arrested within 18 months	44%	33%	78%

RECIDIVISM - ARRESTS FOR SELECTED CRIMES

The specific charges were noted for individuals who were arrested for a felony against a person(s) during the 12 or 18 months after release. The number of people arrested for each category was equal to or lower than those who posted bail compared to those released on emergency bail. The number of individuals arrested in each category were:

INDIVIDUALS ARRESTED FOR SELECT CRIMES WITHIN 1 YEAR OF RELEASE	POSTED BAIL 2018-2019 (2023 Study)	POSTED BAIL 2016-2018 (2024 Study)	RELEASED ON ZERO BAIL
Homicide	0	0	0
Attempted Homicide	0	0	2
Kidnapping	0	0	0
Robbery	2	0	5
Carjacking	0	0	0
Sex Assault	1	0	1
Assault with a Deadly Weapon	5	0	6
Domestic Violence	0	2	8

INDIVIDUALS ARRESTED FOR SELECT CRIMES WITHIN 18 MONTHS OF RELEASE	POSTED BAIL 2018-2019 (2023 Study)	POSTED BAIL 2016-2018 (2024 Study)	RELEASED ON ZERO BAIL
Homicide	0	0	0
Attempted Homicide	0	0	2
Kidnapping	0	0	0
Robbery	2	0	5
Carjacking	0	0	0
Sex Assault	1	0	1
Assault with a Deadly Weapon	5	0	6
Domestic Violence	0	2	8

RECIDIVISM - ARRESTS BY CRIME TYPE

Each person who was rearrested during the 12 or 18 months had their arrests classified as misdemeanor or felony, and whether it was a crime against a person, property, or society. Note that the sum of number of arrests by victim type do not equal the total number of arrests as one person could be arrested for different charges.

MISDEMEANOR ARRESTS WITHIN 1 YEAR OF RELEASE	POSTED BAIL 2018-2019 (2023 Study)	POSTED BAIL 2016-2018 (2024 Study)	RELEASED ON ZERO BAIL
Individuals arrested for any Misdemeanor	20%	24%	59%
Individuals arrested for Misd - Person	1%	1%	9%
Individuals arrested for Misd - Property	10%	9%	28%
Individuals arrested for Misd - Society	15%	18%	51%

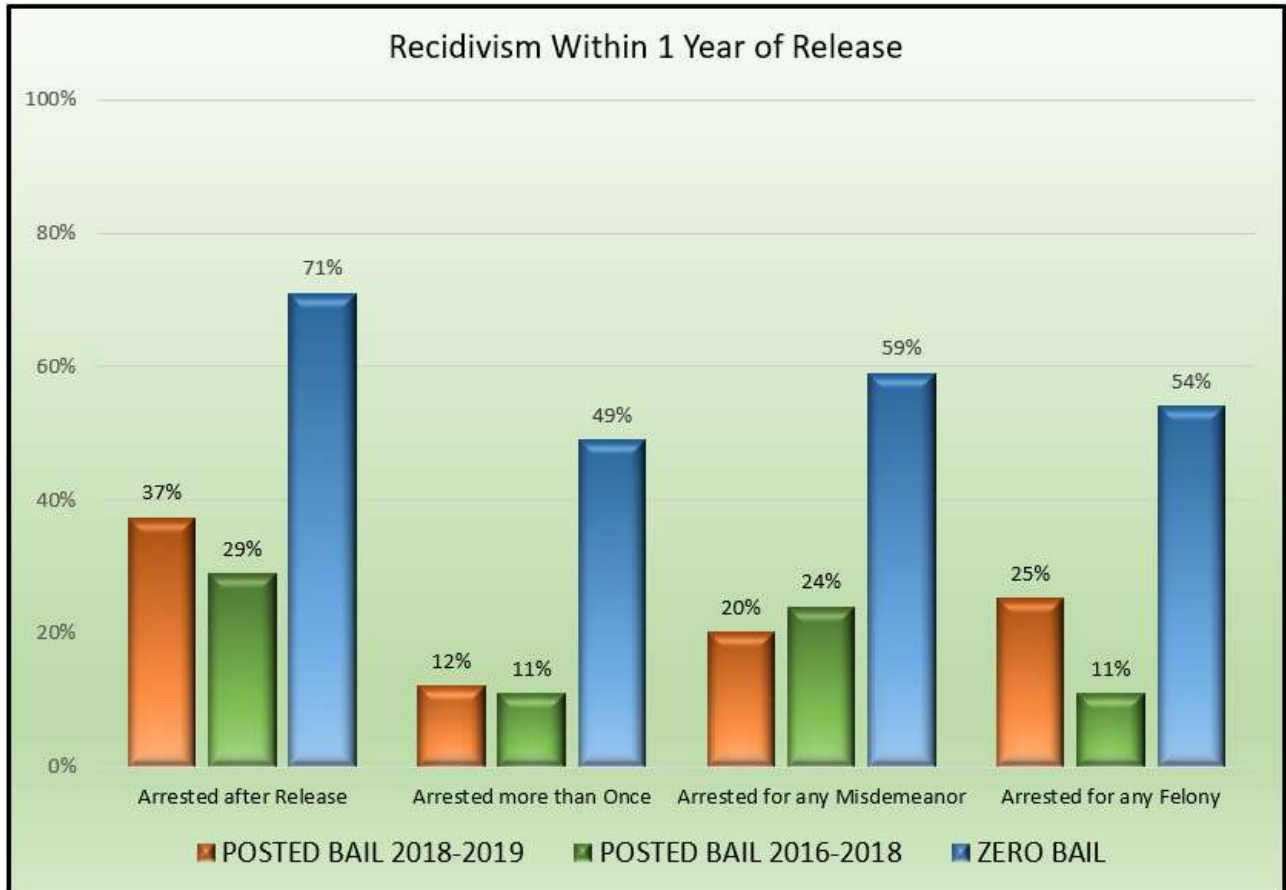
FELONY ARRESTS WITHIN 1 YEAR OF RELEASE	POSTED BAIL 2018-2019 (2023 Study)	POSTED BAIL 2016-2018 (2024 Study)	RELEASED ON ZERO BAIL
Individuals arrested for any Felony	25%	11%	54%
Individuals arrested for Felony - Person	6%	3%	24%
Individuals arrested for Felony - Property	15%	6%	39%
Individuals arrested for Felony - Society	13%	6%	14%

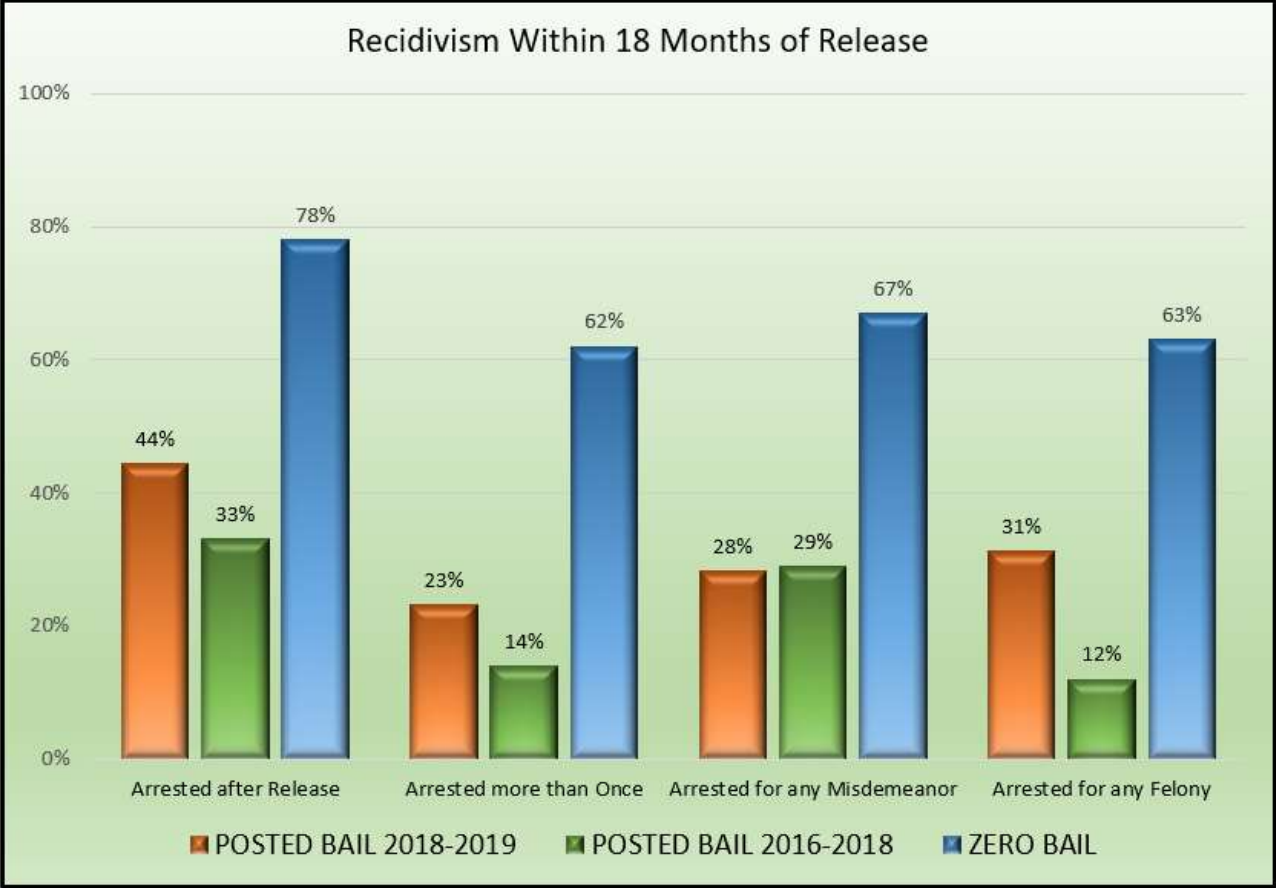
MISDEMEANOR ARRESTS WITHIN 18 MONTHS OF RELEASE	POSTED BAIL 2018-2019 (2023 Study)	POSTED BAIL 2016-2018 (2024 Study)	RELEASED ON ZERO BAIL
Individuals arrested for any Misdemeanor	28%	29%	67%
Individuals arrested for Misd - Person	1%	1%	11%
Individuals arrested for Misd - Property	10%	10%	33%
Individuals arrested for Misd - Society	23%	23%	55%

FELONY ARRESTS WITHIN 18 MONTHS OF RELEASE	POSTED BAIL 2018-2019 (2023 Study)	POSTED BAIL 2016-2018 (2024 Study)	RELEASED ON ZERO BAIL
Individuals arrested for any Felony	31%	12%	63%
Individuals arrested for Felony - Person	8%	3%	27%
Individuals arrested for Felony - Property	20%	7%	43%
Individuals arrested for Felony - Society	13%	6%	21%

CHARTS OF RECIDIVISM AFTER RELEASE

The following column charts visually depict the differences in recidivism between the two groups who posted bail and the group that received emergency zero bail.





CONCLUSION

The Emergency Zero Bail schedule was in effect in Yolo County from April 6, 2020, to May 31, 2021. Bail for select crimes was dramatically reduced, many to zero dollars. The purpose was to minimize crowding in the jail system to help fight the introduction and spread of Covid-19.

Recidivism during 12- and 18-month periods were examined for a random sample of 100 arrested individuals who posted bail in 2018 to 2019, compared to a random sample of 100 arrested individuals who were released on zero bail between April 19, 2020, and May 31, 2021. Additionally, due to unintentional overlap of the group who posted bail with the beginning of the emergency zero bail time, a second group of people who posted bail in 2016 to 2018. Offender demographics and original offenses were similar for the comparison groups despite the random sample generator process. Recidivism was counted if the individual was arrested anywhere within 12 or 18 months, for at least one new crime, after being previously released.

Key findings of this study include:

- Individuals released on zero bail were subsequently rearrested for a total of **169% more crimes** than individuals released on bail.
- Arrested individuals released on **zero bail reoffended at an average rate that was 70% higher** than arrestees who posted bail.
- The average recidivism rate for those released on zero bail was **71% over 12 months**, while the average recidivism rate for those released on bail was only 29% to 37%.
- The average recidivism rate for those released on zero bail was **78% over 18 months**, while the average recidivism rate for those released on bail was only 33% to 44%.
- Individuals released on **zero bail committed new felonies 103% more often** than those who posted bail.
- Individuals released on **zero bail committed new misdemeanors 130% more often** than those who posted bail.
- Individuals released on **zero bail were rearrested for two or more new crimes 169% more often** than those released on bail.
- Individuals released on **zero bail committed new violent offenses 175% more often** than those who posted bail.

Even with allowances made for outside influences, it is apparent that recidivism under the emergency zero bail program was much higher than the rate for those who had previously posted some form of bail.

APPENDIX A - CONSIDERATIONS

There are several considerations to keep in mind in this analysis.

- This study was a sample of the individuals who posted bail and those who were released on emergency zero bail. It is not all inclusive of all individuals. It is likely that certain noteworthy crimes were missed in this sample.
- This study examined recidivism in arrests. Whether the arrest led to a conviction was not examined as there are many additional factors to consider, including if the case is still pending, or if there have been plea bargains dismissing some or all charges.
- The Emergency Zero Bail program was designed to reduce crowding in the jail system during the time of the Covid-19 pandemic, thus helping to prevent the transmission and spread of Covid-19 to inmates and staff. It was not intended to rehabilitate. No analysis was done on the jail population before or during emergency bail to determine if the population was affected, nor was any analysis done on the spread of Covid-19 within the jail inmates or staff.
- In March 2021 the California Supreme Court gave an opinion in re Kenneth Humphrey that concluded that some people do not post bail because they can not afford to, and affirmed a District Court of Appeal restricting the use of “cash bail” on defendants who could not afford it. Defendants could still be detained based on articulable facts of a threat of danger to the community or risk of flight. This analysis does not focus on or make any assumptions about bail amounts or the Humphrey Decision.
- This study does not examine how long individuals would have been held in jail had they not posted bail. It does not examine recidivism of those who did not post bail. It only compared those who posted bail to those who were released on emergency zero bail.
- This study does not address any outside factors, including effects of the Covid-19 pandemic, rehabilitation or treatment programs, overall crime rates, societal influences, economy, legal changes, etc.
- The Public Policy Institute of California (PPIC) measures recidivism as rearrest within two years. In this analysis, the Emergency Zero Bail was in place until June 2021. As two years had not yet elapsed at the time of the original analysis, this report examined rearrests within 12 months and 18 months of the date they were released on bail for all individuals.
- Arrests were determined by examining the Department of Justice (DOJ) arrest records for each individual. This report does not include Notice to Appear (citations) where the individual was cited and released, but is not booked into a jail. Often a person arrested for a misdemeanor charge will be issued a notice to appear citation and not booked into a jail.
- For additional information regarding Zero dollar bail see <https://yoloda.org/california-judicial-council-emergency-rule/>

APPENDIX B - CRIME CODES USED

The following crime codes, with their subsections, were used to procure a list of people who were released after posting bail:

11350(a) HS	25400(a)(2)/(c)(2) PC	490.4(a)(3);f2 PC	487(b)(2) PC
11352.1(b) HS	25400(a)(2)/(c)(3) PC	490.4(a)(4) PC	487(b)(3) PC
11364(a) HS	25400(a)(2)/(c)(6) PC	496a(a) PC	487(c) PC
11377(a) HS	25400(a)(3) PC	647(e) PC	487(d) PC
11550(e) HS	25400(a)(3)/(c)(1) PC	647(j)(2) PC	487f PC
11351 HS	25400(a)(3)/(c)(2) PC	647(j)(3)(A) PC	490.5(a) PC
11351.5 HS	25400(a)(3)/(c)(6) PC	242 PC	496(a) PC
11378 HS	25400(C)(3) PC	476 PC	496d(a) PC
11352(a) HS	25400(C)(4) PC	503 PC	594(a)(b)(1) PC
11352(b) HS	25400(c)(5) PC	4573 PC	594(a)(b)(2)(A) PC
11352.5(1) HS	25850(a) PC	4573.5 PC	594(a)(b)(2)(B) PC
11352.5(2) HS	25850(a)/(c)(1) PC	4573.6 PC	594.1(e)(1) PC
11352.5(3) HS	25850(a)/(c)(2) PC	4573.8 PC	594.2(a) PC
11377(b)(1) HS	25850(a)/(c)(3) PC	368(b)(1) PC	594.3(a) PC
11377(b)(2) HS	25850(a)/(c)(6) PC	368(b)(2)(A) PC	647(a) PC
11379(a) HS	25850(a)/(c)(7) PC	368(b)(2)(B) PC	647(b) PC
11379(b) HS	29610/29700(a) PC	368(b)(3)(A) PC	647(c) PC
11379.6(a) HS	29610/29700(b) PC	368(b)(3)(B) PC	647(d) PC
11379.6(b) HS	30305(a)(1) PC	368(c) PC	647(f) PC
11379.7(a) HS	473(a) PC	368(d) PC	647(h) PC
11550(a) HS	473(b) PC	368(e) PC	647(i) PC
459.5 PC	476a(a) PC	368(f) PC	647(j) PC
488 PC	476a(b) PC	452(a) PC	647(k)(1) PC
3455 PC	476a(b) PC	452(b) PC	647(k)(2) PC
21310 PC	487(a) PC	452(c) PC	647(k)(3)(A) PC
22010 PC	487(b)(1)(A) PC	452(d) PC	647.6(a) PC
22210 PC	487e PC	470(a) PC	647.6(b) PC
33215 PC	487j PC	470(b) PC	647.6(c)(1) PC
25400(a)(1)/(c)(2) PC	490.2(a) PC	470(c) PC	647.6(c)(2) PC
25400(a)(1)/(c)(4) PC	490.4(a)(1);f1 PC	470(d) PC	647c PC
25400(a)(1)/(c)(6) PC	490.4(a)(1);f2 PC	470a PC	10851(a) VC
25400(a)(10) PC	490.4(a)(2);f1 PC	470b PC	10851(b) VC
25400(A)(2) PC	490.4(a)(2);f2 PC	476a(a) PC	
25400(a)(2)/(c)(1) PC	490.4(a)(3);f1 PC	476a(b) PC	