

Impact of Remote Bail Proceedings on Bail Decisions

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For decades jurisdictions have experimented with or used technology allowing an individual or groups of individuals to appear in a court proceeding from a remote location. The Covid-19 pandemic heightened interest in remote proceedings and special court rules and guidelines were adopted authorizing and expanding use of remote proceedings, including in bail proceedings. In light of this new interest, the Criminal Justice Innovation Lab (CJIL) sought to identify and review the available literature on the effect of remote proceedings on bail decisions. This review identified only one relevant U.S. study from Cook County, IL, finding that the introduction of closed-circuit television procedures (CCTP) coincided with a substantial increase in average bail amounts across multiple felony offense types. As a result of that study, CCTP was largely discontinued in Cook County (Diamond, Bowman, Wong, & Patton, 2010, p. 870). However, limitation of the Cook County study and the lack of additional literature on the subject suggests much remains unknown regarding the effect of remote proceedings on bail decisions.

Beginning in 1999, Cook County, IL implemented CCTP during bail hearings for most felony cases.¹ Researchers examined 645,117 felony bond decisions for the eight years preceding and following CCTP implementation (January 1, 1991 – December 31, 2007) to assess its impact on bail amounts. The study found that, for all combined offenses shifted to televised bail hearings, there was a statistically significant increase of \$20,958 or 51% in average bail amount following CCTP implementation. Offenses that continued to have live hearings increased 13% in the same time period, but this increase was not statistically significant (Diamond et al., 2010).

These findings indicate the use of CCTP caused a large and statistically significant increase in bail amounts, but an important caveat should be noted. While the analysis compared bail amounts for offenses before and after CCTP implementation, it did not assess or control for defendant characteristics. For example, characteristics such as prior criminal history and history of FTAs, which can affect bail decisions, were not assessed. It is therefore possible that some portion of the 51% increase in bail amounts is attributable to changes in defendant characteristics, rather than CCTP itself. Nevertheless, a recent report indicated that CCTP was largely discontinued in Cook County, Illinois after this study was released.

Significantly, the Cook County study examined only felony cases and changes in bail amounts, as opposed to conditions of release more generally. No research was found that examined the impact of remote proceedings in misdemeanor cases or with respect to type of conditions imposed (e.g., written promise, custody release, unsecured bond, secured bond). As others have noted, there is a need for rigorous empirical research examining the impact of remote proceedings on bail decision-making (Gourdet et al., 2020, p. 8).

¹ First degree murder, second degree murder, manslaughter, and sexual assault cases continued to have live hearings.

References

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