

The Hidden Practice of Utilizing Bonds to Cover Legal Financial Obligations

I. Introduction

Over the past decade, scholars have brought increased attention to the negative impacts of legal financial obligations (LFOs) for individuals who encounter the criminal justice system (i.e., justice-involved individuals). Most often, scholars have focused on LFOs such as court fines or probation fees (e.g., to cover electronic monitoring). However, another revenue-generating mechanism has been less visible: the practice of utilizing “bail” or “bond” payments. These payments are typically used to ensure that an individual returns to court after arrest and booking. Less known is that they are often held for a lengthy period beyond the initial court appearance so that if the individual is found guilty, the bail money may be used to pay off debt owed to the court. This practice is called bond conversion. Although bond conversion is typically legal, it runs counter to the general understanding that bonds are intended to ensure that an individual appears in court—and are released upon appearance at the first court hearing. With almost half a million people being held in U.S. jails awaiting trial (i.e., pretrial), this lesser-known practice of bond conversion must be examined more closely. In this Article, we investigate statutes authorizing bond conversion in each of the fifty U.S. states and the federal code.

In addition to the growing body of literature that has begun to address the negative impacts that LFOs can have on justice-involved individuals, considerable scholarly work has explored the concerning ways in which the American monetary bail system and the pretrial process impacts individuals long before cash bonds are converted. However, the literature is sparse on what happens to bail deposits after the individual shows up in court. That is, research is mostly silent on the “conversion,” or application of cash bail/bond money into payment for court and/or supervision fines and fees. While this practice may be legal, it does not follow the broadly understood purpose of bail, which is to *ensure that the individual returns for their court hearing and does not pose a threat to public safety*. Thus, missing from the bail conversation is the invisible yet potentially problematic practice of bond conversion. Individuals who find themselves in a position to post bail—or, later, hope to have their bail money returned to them—may experience feelings of distrust toward a system whose policies are not transparent. In these situations, according to procedural justice theory,

individuals lose trust in the system and are less likely to comply with the law as a result.¹

In this Article, we explain the process of bond conversion and explore statutes that authorize this practice nationwide. We use the procedural justice framework to show how the practice may negatively impact justice-involved individuals’ feelings of fairness and financial well-being. We also describe the legal context of bond conversion, including factors deemed relevant by courts in determining the legality of the practice. These factors are then used to shape our collection and assessment of the relevant statutes from all fifty states and from the U.S. Code. Finally, we offer recommendations for future bond conversion research.

II. Literature Review

A. Pretrial Detention and Private Bail Bonds

Considerable scholarly work has demonstrated the harmful effects of pretrial decision-making. Individuals subject to pretrial detention are more likely to plead guilty,² have a greater likelihood of conviction,³ face longer sentence lengths,⁴ are at an increased risk of recidivism,⁵ and accumulate greater criminal justice debt.⁶ There is also evidence that pretrial detention exposes individuals to communicable diseases, violence, and isolation and may also damage social networks⁷ and result in job loss.⁸

Those who are able to secure release from jail but who must rely on a bail bondsperson typically must pay a non-refundable 10% premium in order to secure the private bail bond, whether they are found guilty or not.⁹ This cost alone can be a considerable financial hardship. Individuals seeking private bail bonds are also vulnerable to potential exploitation. For example, predatory contracts may force signers to give up privacy rights, and subject them not only to nonrefundable premiums but also to various, potentially illegal fees.¹⁰ In some cases, the contracts even give bail bond agents complete control over a cosigner’s collateral, including life savings, homes, and vehicles.¹¹

B. Release on Monetary Bail

While pretrial detention and use of a bail bondsperson have troubling effects on justice-involved individuals, the focus of this Article is on a lesser-known potential detriment facing those who are able to pay their cash bail in order to



CARMEN L. DIAZ*

Department of
Criminal Justice,
Indiana University
Bloomington

MICHELLE YING

Department of
Criminal Justice,
Indiana University
Bloomington

MIRIAM NORTHCUTT BOHMERT

Department of
Criminal Justice,
Indiana University
Bloomington

JESSICA MECKES

Department of
Criminal Justice,
Morningside
University

MITCHELL FARRELL

Department of
Criminal Justice,
Indiana University
Bloomington

Federal Sentencing Reporter, Vol. 34, No. 2–3, pp. 119–127, ISSN 1053-9867, electronic ISSN 1533-8363.
© 2022 Vera Institute of Justice. All rights reserved. Please direct requests for permission to photocopy or reproduce article content through the University of California Press’s Reprints and Permissions web page, <https://www.ucpress.edu/journals/reprints-permissions>. DOI: <https://doi.org/10.1525/fsr.2022.34.2-3.119>.

secure pretrial release. While these individuals are advantaged in many ways, compared to those who are detained pretrial and those who must use a bail bondsperson, the conversion of their bail money to pay for LFOs may also have negative consequences. Scant literature exists on the conversion of bail money to pay for LFOs, but substantial literature has documented the negative impact of cash bail practices more generally on justice-involved individuals.

Individuals who are assigned monetary bail are more likely to experience negative outcomes in later stages of case processing. Like pretrial detention, research has shown that the assignment of monetary bail rather than nonfinancial release options increases an individual's chances of being convicted and of recidivating. In a 2016 investigation of the assignment of monetary bail in Philadelphia and Pittsburgh, Gupta and colleagues found that individuals who were assigned monetary bail were 12% more likely to be convicted and between 6% and 9% more likely to recidivate.¹²

Monetary bail practices can be particularly detrimental for low-income individuals. Despite the fact that bail amounts often exceed the typical household's liquid savings,¹³ the decision regarding the amount imposed rarely involves any investigation into the arrested individual's ability to pay.¹⁴ Moreover, justice-involved individuals tend to have lower incomes than non-justice-involved individuals. To illustrate, in 2015 the median pre-arrest annual income for an individual held on bail was roughly \$15,000; this was about half the income of individuals who were not incarcerated.¹⁵ Thus, those who are able to secure release on cash bail likely suffer considerable financial strain.

Monetary bail practices, in addition to being more harmful to low-income individuals, may also be more harmful to people of color. Studies have indicated that compared to White individuals, Black individuals have a greater likelihood of being given cash bail over other nonmonetary release options,¹⁶ may be assigned greater bond amounts,¹⁷ and are more likely to be held on bail as a result of inability to pay.¹⁸ Moreover, research investigating the influence of intersecting social statuses on bail outcomes has also found that compared to other groups, young Black men face the harshest bail decisions.¹⁹

C. Legal Financial Obligations

Individuals released on cash bond may expect to have their funds returned to them when appearing in court. However, these funds may be held by the court in order to pay for LFOs. While scholarly work has not evaluated this bond conversion practice, studies have increasingly investigated the effects of LFOs on justice-involved individuals. Criminal justice organizations have become increasingly reliant on LFOs to fund their operations.²⁰ However, as with bail, jurisdictions typically do not consider an individual's ability to pay when they impose fines, fees, and other LFOs.²¹ Rather, monetary sanctions from courts are generally based on offense type.²² LFOs pose disproportionate disadvantages to low-income individuals, who are more likely to be

justice-involved, less likely to be able to pay, and thus more often subject to sanctions for nonpayment.²³ These sanctions can include additional interest and surcharges, they may extend community supervision, and they may even lead to incarceration. Unfortunately, because of interest and surcharges, even those individuals who make regular payments can face a lifetime of criminal justice debt.²⁴

Fines, fees, and resulting criminal justice debt affect justice-involved individuals' abilities to secure basic necessities and place strain on family relationships. Those subject to LFOs struggle to pay for other basic needs, including rent, medicine, food, and financial support for their dependents.²⁵ Moreover, family strain results from long-term and hidden costs of LFOs. Costs that may be associated with incarceration include those related to treatment for mental and physical health issues; displaced children and loss of custody rights; and missed educational and employment opportunities for those imprisoned as well as for their family members.²⁶

With respect to the conversion of bond money to pay for LFOs, the practice could potentially alleviate some of the harms that result from nonpayment of LFOs. It is also possible, however, that bond conversion produces harm by forcing defendants to divert cash to immediately pay for LFOs while ignoring other needs (e.g., paying for a lawyer or paying rent). Thus, it is necessary for researchers to expand on the bail and LFO literature by addressing bond conversion practices.

III. Theoretical Framework

Procedural justice is a useful framework²⁷ for understanding bail and bond processes. Procedural justice posits that all criminal justice encounters have the potential to either build or erode trust and, in turn, increase or decrease compliance with the law over the course of an individual's involvement with the criminal justice system. This theory argues that *how* people are treated is even more important than the *outcome* of their encounters.

Studies on procedural justice across all stages of the criminal justice system have consistently found that when agencies improve perceptions of fairness, they also increase trust and voluntary compliance with the law. There are four primary elements to this theory. The first is feeling that a person has a voice, or the *opportunity to be heard* and tell their side of the story. Second is feeling that *the legal process is neutral, transparent, and equally applied* to all people regardless of age, race, gender, or class. Third is feeling *treated with dignity* and that your rights were respected; this includes feeling you were given time and attention required to meet your needs. Fourth is feeling that legal authorities are *trustworthy* and that they show sincere concern about the person's situation. When justice professionals can attend to these four elements, they generate public trust and, in turn, greater compliance with the law. This holds true even when individuals experience more negative outcomes (e.g., have to pay a higher fine) than people who receive better outcomes but who do not have procedurally

just encounters. On the other hand, when these four factors are not present in encounters with the criminal justice system, trust in the system declines. Because implementing these four pillars can be simple and low-cost, it is a promising approach to improving client relationships with criminal justice agencies.

Procedural justice theory could be of benefit to research on bond conversion. The first and third pillars, having the opportunity to be heard and being treated with dignity, are unlikely to be fulfilled given the very limited opportunity for clients to interact with judges who decide whether to release bail or bond money back to the individual, but often feel bound by statutes, created by legislators, asserting that bonds should be held. The second pillar is equally problematic: the process seems to benefit wealthier people and punish low-income people, for whom deprivation of the held funds might prohibit retaining legal representation. The fourth pillar, feeling that legal authorities are trustworthy, is also unlikely to be satisfied, given that the bond conversion process is not well known in the general population and individuals may not be given notice that their bond money will be converted. Taken together, individuals who encounter bond conversion are highly likely to feel that their encounter with the criminal justice system is not procedurally just. As a result, they are likely to lose trust in the criminal justice system, and lose the desire to comply with its seemingly opaque, arbitrary, and disrespectful rules.

The practice of bond conversion may feel unfair to individuals. When bail is determined by statute, they do not have a voice in how much they can afford. They may feel that bail more negatively impacts lower-income individuals than higher-income individuals. For example, individuals with limited financial resources may need to choose between using their limited money to secure better legal representation that could result in lower sentences or using their money to secure release from jail to retain their employment. Being able to obtain shorter sentences, for example probation sentences, provides protection from technical violations (things that are not necessarily illegal) such as failing to update a phone number with your supervision agent. When payment of fees is made a condition of probation, nonpayment may lead to extension of supervision, or even reincarceration in some jurisdictions.²⁸

IV. The Legal Context of Bond Conversion

A brief review of case law related to this topic sheds some light on what the courts have identified as relevant in determining the legality of bond conversion. Court rulings on the legality of using a cash bail deposit as payment for fines and court costs assessed against an individual in criminal proceedings have often relied on the specific language found in the relevant statutes.²⁹ Several courts have denied the court's right to convert bail money to pay for fines or costs, solely based on a lack of specific language in the relevant statute to permit bond conversion.³⁰ Further,

when specific statutory language permitting bond conversion has been present, courts have often upheld bond conversion practices. This reliance of the courts on specific statutory language supports the validity of this Article's focus on assessing statutes.

Courts have had more trouble determining the legality of bond conversion in instances where a third party has paid the cash bail.³¹ Some courts have decided that cash bail deposits made by a third party are not allowed to be converted as payment for fines assessed against the individual accused of a crime. Other courts, however, have decided that if the applicable statutes permitted bond conversion without referencing who paid the bail, a presumption was made that bond conversion could occur without regard to whether the individual accused of a crime or a third party posted the bail. Some courts have held that when a statute or bail form explicitly states that a cash bail deposit may be converted, adequate notice has been provided to allow the bond to be converted.³² Several other courts have determined that a bail deposit made by a third party is the property of the individual accused of a crime. Courts' concerns about the legality of converting a third-party bond deposit to cover LFOs highlights the importance of any statutory reference to third parties, as documented in our assessment of statutes relevant to bond conversion below.

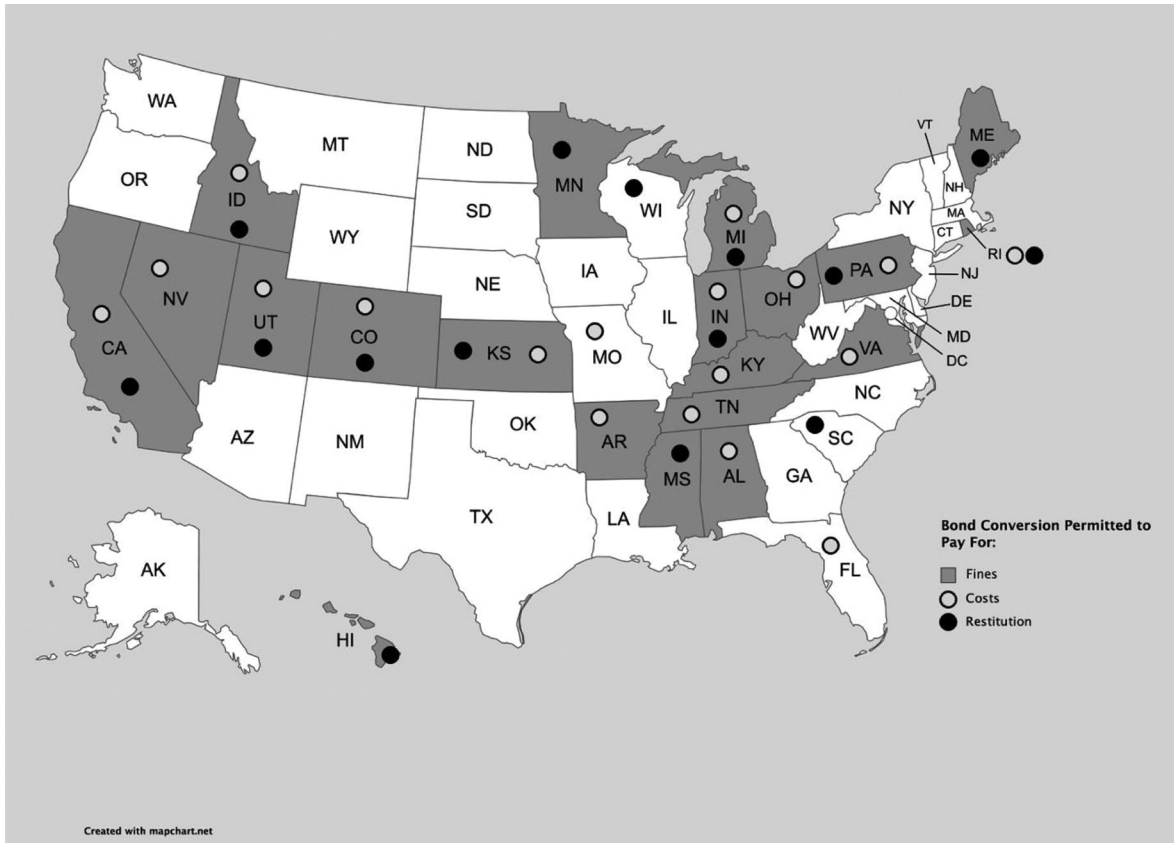
Some parties objecting to bond conversion have asserted constitutional challenges. In particular, parties have argued that because bail is meant solely to secure appearance in court, requiring that the bail deposit be used to cover LFOs makes the bail amount excessive, violating the Eighth Amendment.³³ In 1962, the Supreme Court ruled in *Cohen v. United States* that a judicial rule permitting bond conversion was unconstitutional. The case involved an individual who sought bail in a U.S. District Court. Under a Federal Rule of Criminal Procedure, the court would admit the individual to bail only upon agreement that a portion of the deposit be used to pay a fine.³⁴ While the court found this instance of bond conversion unconstitutionally excessive, other courts have declined application of this rule when bond conversion is permitted by legislation rather than by judicial rule.³⁵

The case law on the use of cash bail deposits to pay for fines and court costs demonstrates that while courts have confirmed the legality of bond conversion in many cases, this has not always been true. Decisions often hinge on whether the relevant state statute explicitly permits bond conversion, whether the statute's language addresses third-party payments, and whether the statute's language requires that notice be given. Thus, these factors guide the following investigation into statutes relevant to bond conversion.

V. Methods

To document the extent of bond conversion practices in the United States, we conducted an assessment of statutes that expressly permit the use of cash bail deposits for payment

Figure 2.
Types of Legal Financial Obligations Bond Conversion Is Permitted to Pay For, by State Statute



in Figure 2 (other, less common, LFOs to which bonds may be converted were excluded from this figure). Figure 3 provides information on statutes that authorize bond conversion, including the types of LFOs to which bonds may be converted for payment, as well as rules concerning third parties and prior notice. A detailed table with the relevant statutes, specific statute language, whether bond conversion is permitted, all types of LFOs a bail deposit may be used to pay for, whether notice is required, and whether third parties are exempt can be found in an online Appendix.⁴¹

States with statutes permitting bond conversion may require that notice be given to the cash bond depositor, prior to paying the bond, recognizing that the bond amount will be converted to pay for the LFOs of the individual accused of a crime. This is not always the case, however. In fact, among the twenty-five statutes that permit bond conversion, only five require that notice be given. As shown in Figure 1, the states that statutorily require notice are Florida, Michigan, Pennsylvania, Virginia, and Wisconsin. It is more likely that the statute does not explicitly require that any notice be given at the time when bail is paid. While the state statute may not require these measures, local rules or bond forms may do so. For this reason, we cannot draw conclusions about the actual number of individuals who are not given such notice. Given that only five states require

notice, however, we do think it is possible that many individuals posting cash bail are unaware that it may not be returned to them.

Of the twenty-five statutes that expressly permit bond conversion, only three contain language attempting to make exceptions for individuals who are indigent or who would suffer undue hardship as a result of the practice. Ohio statute dictates that a cash bail deposit may be used to pay a penalty or fine, and court costs only “if the defendant is not indigent.”⁴² The U.S. Code and the Pennsylvania Rules of Criminal Procedure dictate that courts in the federal jurisdiction and those in Pennsylvania will not convert a bond if it is demonstrated that the individual “would suffer an undue hardship.”⁴³ The remaining twenty-two statutes permitting bond conversion do not address indigency or undue hardship.

As shown in Figure 1, among the twenty-four state statutes permitting bond conversion, only seven states have relevant statutes that exclude friends, family members, or other third parties (e.g., bail bondspersons, community bail funds) posting cash bail from having their bond converted. The U.S. Code also provides an exemption for third parties. Four statutes contain language that explicitly exempts third parties. Pennsylvania specifies that a bail deposit is only used to cover restitution, fees, fines, and costs “if the defendant is named the depositor”;⁴⁴ and in California, “if

Figure 3.
Statutes Permitting Bond Conversion

Jurisdiction	Fines	Costs	Restitution	Other LFO	Rules
Federal	✓	✗	✓	✓	👥
Alabama	✓	✓	✗	✗	
Arkansas	✓	✓	✗	✗	👥
California	✓	✓	✓	✗	👥
Colorado	✓	✓	✓	✓	
Florida	✗	✓	✗	✓	👥 📄
Hawaii	✓	✗	✓	✓	
Idaho	✓	✓	✓	✓	
Indiana	✓	✓	✓	✓	
Kansas	✓	✓	✓	✓	
Kentucky	✓	✓	✗	✓	
Maine	✓	✗	✓	✓	
Michigan	✓	✓	✓	✓	👥 📄
Minnesota	✓	✗	✓	✗	
Mississippi	✓	✗	✓	✗	
Missouri	✗	✓	✗	✗	
Nevada	✓	✓	✗	✗	
Ohio	✓	✓	✗	✗	👥
Pennsylvania	✓	✓	✓	✓	👥 📄
Rhode Island	✓	✓	✓	✓	
South Carolina	✗	✗	✓	✗	
Tennessee	✓	✓	✗	✗	
Utah	✓	✓	✓	✓	
Virginia	✓	✓	✗	✗	👥 📄
Wisconsin	✗	✗	✓	✓	📄

Notes: 👥 Statute dictates that some third parties are exempt from bond conversion; 📄 Statute requires that the individual depositing bail be informed that the deposit may later be used to cover legal financial obligations (LFOs) imposed upon the defendant by the court; ✓ bond may be converted to pay for LFO; ✗ bond may *not* be converted to pay for LFO. Twenty-six states do not explicitly permit bond conversion in statute and are omitted from this table. For a full table of all fifty states and the U.S. Code, visit <https://cpb-us-w2.wpmucdn.com/blogs.iu.edu/dist/5/645/files/2021/08/Online-Materials-8.9.21.pdf>.

the depositor was not the defendant, the deposit after judgment shall be returned to that person.”⁴⁵ Michigan statute also dictates that a cash deposit may be converted to pay for LFOs only if the defendant is the cash bond depositor.⁴⁶ Similarly, the U.S. Code permitting bond conversion directly states that “this section shall not apply to any third party surety.”⁴⁷ Other statutes contain language indirectly exempting third parties by stating that the bond may be converted only if the individual posting the bond agrees to or approves of the deposit being converted. Ohio’s statute states that a bail deposit made by a third party may not be converted to cover LFOs without “express approval” of the individual who made the deposit.⁴⁸ Virginia’s statute similarly states that a bond cannot be converted to pay for LFOs “unless agreed to by the person who posted such bond.”⁴⁹ Florida and Arkansas statutes exclude only bail

bond agents from conversion, while other third parties are still subject to the practice.⁵⁰ The remaining eighteen statutes we reviewed do not exclude third parties from bond conversion rules. Based on our assessment of statutory authorization of bond conversion, it often does not matter whether the individual accused of a crime, or a third party, is posting the cash bail; it can still be used to pay for the LFOs of the individual accused of a crime. This means that friends and family members seeking the pretrial release of a loved one run the risk of losing their bond deposit, even if the individual accused of a crime appears in court.

While statutes are a major source of authorization of bond conversion, it is also important to note that local jurisdictional practices may still vary for a number of reasons. One is the different types of bonds offered in each jurisdiction. For example, in some counties, surety bonds

are offered primarily to individuals eligible for pretrial release. They are rarely offered cash bonds. Release on a surety bond requires that the individual pay a nonrefundable premium to the bail bondsperson,⁵¹ whether they can afford to pay the full amount themselves or not. Because the money is given to the bail bondsperson rather than to the court, that money cannot be converted to pay LFOs, even when statute permits it. Another reason local practices may vary is that while the state statute may permit bond conversion, it is not always a requirement. For example, Alabama statute states that cash bail deposits *must* be applied to fines and costs assessed against the individual in a criminal proceeding,⁵² but in Utah the relevant statute simply states that the court *may* use the bail deposit as payment for LFOs.⁵³ Local jurisdictions in Utah then may have more varied practices. Further, as previously mentioned, when bond conversion is permitted but not required, or is not mentioned in statute either way, local jurisdictions may authorize it by other means (e.g., local court rules, bond forms).

VII. Conclusion

Our assessment has revealed that statutes explicitly permitting bond conversion are fairly common. Twenty-four U.S. states and the U.S. Code expressly permit bond conversion via statute. Most of these statutes do not require that notice be given to the bond depositor indicating that the deposit may be converted to pay for LFOs. Further, most of these statutes do not exclude third parties, including family members and friends, from the practice, and few of the statutes have language that attempts to make exceptions for the low-income individuals most vulnerable to the practice.

The lack of language requiring notice in bond conversion statutes may mean that those subjected to bond conversion practices are caught off guard. Those posting bail money may be surprised to find that they will not have those funds returned once the individual appears in court. The procedural justice framework suggests that this practice may contribute to feelings of unfairness and an erosion of trust in the justice system, leading to decreased compliance with the law.

Bond conversion practices may also be particularly harmful to low-income individuals and people of color. Low-income individuals may be more likely to depend on returned bail deposit funds to pay for other necessities. However, based on our assessment of the relevant statutes, justice-involved individuals who are low-income are unlikely to be protected. Moreover, while on its face, bond conversion may appear to be race neutral, outcomes may still be disparate due to earlier case-processing decisions. For example, the race of justice-involved individuals has been shown to influence arrest⁵⁴ and bail⁵⁵ decisions such that people of color face harsher outcomes. As a result, we would expect that a disproportionate number of individuals of color will be subject to bond conversion practices.

While this Article has documented the statutes relevant to bond conversion in all fifty states and the U.S. Code, the

scope of this analysis is ultimately narrow and aimed primarily at providing the foundation for hypotheses in future work. Based on our initial assessment of relevant statutes, we recommend a number of avenues for future research on the topic of bond conversion. First, given the lack of scholarly attention to bond conversion practices, a more extensive evaluation of relevant policy and current practices is warranted. Future research should also investigate whether bond conversion practices are being employed consistently. For example, in jurisdictions where state statute and local policy authorize and direct bond conversion practices, are they employed more or less often for certain kinds of individuals or certain kinds of offenses? Moreover, given that procedural justice has been found to vary by factors that exacerbate structural inequalities⁵⁶ and that prior research has found that low-income and minority individuals are disproportionately harmed by LFO practices, future research should also examine whether bond conversion practices are more common and consequential for people or communities who are minoritized. It would also be valuable to explore whether bail bond businesses are offered more protection from bond conversion than other third parties. Given a lack of statutory language addressing this issue, it appears that bondspersons are often not offered special statutory protection. However, it is certainly conceivable that local court rules and practices provide such exemptions.

With the procedural justice framework in mind, it would also be worthwhile to evaluate how knowledgeable the general public is about bond conversion practices and whether such practices would come as a surprise. Furthermore, it would be relevant to examine whether those who expect but do not receive reimbursement for the funds experience distrust of the justice system. As procedural justice theory suggests, a lack of transparency may contribute to distrust of the justice system and, ultimately, a lack of compliance with the law. Finally, future work should also examine whether and how individuals posting bail depend on reimbursement of funds. This line of research would be valuable in determining whether and to what extent bond conversion practices are harmful to justice-involved individuals, which may guide future policy decisions regarding bail practices.

Notes

* The authors declare that there is no conflict of interest. This work was supported by Arnold Ventures. The opinions, findings, and conclusions or recommendations expressed in this manuscript are those of the author(s) and do not necessarily reflect those of Arnold Ventures.

¹ R. K. Brunson, *Police Don't Like Black People: African-American Young Men's Accumulated Police Experiences*, 6 *Criminology & Pub. Pol'y* 71 (2007); C. R. Quinn et al., *Neighborhood Cohesion and Procedural Justice in Policing Among Black Adults: The Moderating Role of Cultural Race-Related Stress*, 48 *J. Community Psychol.* 124 (2020).

² P. Heaton et al., *The Downstream Consequences of Misdemeanor Pretrial Detention*, 69 *Stan. L. Rev.* 711 (2017).

- ³ W. Dobbie et al., *The Effects of Pre-trial Detention on Conviction, Future Crime, and Employment: Evidence from Randomly Assigned Judges*, 108 Am. Econ. Rev. 201 (2018); M. T. Stevenson, *Distortion of Justice: How the Inability to Pay Bail Affects Case Outcomes*, 34 J.L. Econ. & Organization 511 (2018).
- ⁴ Heaton et al., *supra* note 2; Stevenson, *supra* note 3.
- ⁵ Heaton et al., *supra* note 2; E. Leslie & N. G. Pope, *The Unintended Impact of Pretrial Detention on Case Outcomes: Evidence from New York City Arraignments*, 60 J.L. & Econ. 529 (2017).
- ⁶ Stevenson, *supra* note 3.
- ⁷ L. I. Appleman, *Justice in the Shadowlands: Pretrial Detention, Punishment & the Sixth Amendment*, 69 Wash. & Lee L. Rev. 1297 (2012).
- ⁸ Dobbie et al., *supra* note 3.
- ⁹ P. Liu et al., Hamilton Project, *The Economics of Bail and Pretrial Detention (Economic Analysis, Dec. 2018)*, https://www.brookings.edu/wp-content/uploads/2018/12/BailFineReform_EA_121818_6PM.pdf.
- ¹⁰ B. Holland-Stergar et al., UCLA School of Law Criminal Justice Reform Clinic, *The Devil in the Details: Bail Bond Contracts in California* (2017), https://static.prisonpolicy.org/scans/UCLA_Devil%20in_the_Details.pdf.
- ¹¹ *Id.*
- ¹² A. Gupta et al., *The Heavy Costs of High Bail: Evidence from Judge Randomization*, 45 J. Legal Stud. 471 (2016).
- ¹³ Liu et al., *supra* note 9.
- ¹⁴ M. T. Stevenson & S. G. Mayson, *Pretrial Detention and Bail, in Reforming Criminal Justice: A Report by the Academy for Justice* (Erik Luna ed., 2018).
- ¹⁵ B. Rabuy & D. Kopf, Prison Policy Initiative, *Detaining the Poor: How Money Bail Perpetuates an Endless Cycle of Poverty and Jail Time* (2016), <https://www.prisonpolicy.org/reports/DetainingThePoor.pdf>.
- ¹⁶ D. Arnold et al., *Racial Bias in Bail Decisions*, 133 Q.J. Econ. 1885 (2018); B. P. Schaefer & T. Hughes, *Examining Judicial Pretrial Release Decisions: The Influence of Risk Assessments and Race*, 20 Criminology, Crim. Just., L. & Soc'y 47 (2019).
- ¹⁷ Arnold et al., *supra* note 16; I. Ayres & J. Waldfogel, *A Market Test for Race Discrimination in Bail Setting*, 46 Stan. L. Rev. 987 (1994).
- ¹⁸ M. Sacks et al., *Sentenced to Pretrial Detention: A Study of Bail Decisions and Outcomes*, 40 Am. J. Crim. Just. 661 (2015).
- ¹⁹ J. Wooldredge et al., *Is the Impact of Cumulative Disadvantage on Sentencing Greater for Black Defendants?*, 14 Criminology & Pub. Pol'y 187 (2015).
- ²⁰ A. Harris, Russell Sage Foundation, *A Pound of Flesh: Monetary Sanctions as Punishment for the Poor* (2016).
- ²¹ Council of Economic Advisers, *Fines, Fees, and Bail: Payments in the Criminal Justice System That Disproportionately Impact the Poor* (2015), https://obamawhitehouse.archives.gov/sites/default/files/page/files/1215_cea_fine_fee_bail_issue_brief.pdf.
- ²² *Id.*
- ²³ Harris, *supra* note 20.
- ²⁴ *Id.*
- ²⁵ L. Gleicher & C. DeLong, Illinois Criminal Justice Information Authority Center for Justice Research and Evaluation, *The Cost of Justice: The Impact of Criminal Justice Financial Obligations on Individuals and Families* (2018), http://www.icjia.state.il.us/assets/articles/CJFO_PDF_08012018.pdf; A. Harris et al., *Drawing Blood from Stones: Legal Debt and Social Inequality in the Contemporary United States*, 115 Am. J. Sociology 1753 (2010).
- ²⁶ S. deVuono-powell et al., Ella Baker Center for Human Rights, *Forward Together & Research Action Design, Who Pays? The True Cost of Incarceration on Families* (Sept. 2015), <http://whopaysreport.org/wp-content/uploads/2015/09/Who-Pays-FINAL.pdf>.
- ²⁷ T. Tyler & J. Jackson, *Popular Legitimacy and the Exercise of Legal Authority: Motivating Compliance, Cooperation, and Engagement*, 20 Psychol., Pub. Pol'y & Law 78 (2014).
- ²⁸ A. Bannon et al., Brennan Center for Justice, *Criminal Justice Debt: A Barrier to Reentry* (2010).
- ²⁹ M. G. Dupe, Annotation, *Propriety of Applying Cash Bail to Payment of Fine*, 42 A.L.R. 5th 547 (1996).
- ³⁰ *Id.*
- ³¹ *Id.*
- ³² *Id.*
- ³³ *Id.*
- ³⁴ *Cohen v. United States*, 1962 U.S. LEXIS 2336 (1962), <https://advance-lexis-com.proxyiub.uits.iu.edu/api/document?collection=cases&id=urn:contentItem:4M33-XW30-TVX7-K1VB-00000-00&context=1516831>.
- ³⁵ Dupe, *supra* note 29.
- ³⁶ *Id.*
- ³⁷ Although court rules were generally excluded from this assessment, in Pennsylvania, state statute dictates that all matters related to bail are to be governed by general rules. For this reason, we included the relevant rule from the PA Rules of Criminal Procedure in our assessment.
- ³⁸ Statutes that only permitted bail money to be converted to cover an administrative-like fee were excluded from our assessment.
- ³⁹ Bond Required for Arrest Warrantor, Probation or Civil Cash Bond, Proceeds Deemed Unclaimed Property, When, 29 R.S. Mo. § 447.595 (LexisNexis 2020), <https://advance-lexis-com.proxyiub.uits.iu.edu/api/document?collection=statutes-legislation&id=urn:contentItem:5DT0-CFH1-6M8F-5018-00000-00&context=1516831>.
- ⁴⁰ Bail to Be Posted in Cash, by Credit or Debit Card, or by Written Undertaking- Specific Monetary Bail Methods, 77 Utah Code Ann. § 77-20-4 (6) (LexisNexis 2021), <https://advance-lexis-com.proxyiub.uits.iu.edu/api/document?collection=statutes-legislation&id=urn:contentItem:629D-8W83-CH1B-T2CP-00000-00&context=1516831>.
- ⁴¹ Available at <https://cpb-us-w2.wpmucdn.com/blogs.iu.edu/dist/5/645/files/2021/08/Online-Materials-8.9.21.pdf>.
- ⁴² Release of Bail and Sureties, 29 ORC Ann. § 2937.40 (LexisNexis 2021), <https://advance-lexis-com.proxyiub.uits.iu.edu/api/document?collection=statutes-legislation&id=urn:contentItem:5D47-89N1-6VDH-R4HX-00000-00&context=1516831>.
- ⁴³ Payment of Fine with Bond Money, 28 U.S.C § 2044 (LexisNexis 2021), <https://advance-lexis-com.proxyiub.uits.iu.edu/api/document?collection=statutes-legislation&id=urn:contentItem:8SG9-5HW2-D6RV-HOTO-00000-00&context=1516831>; Receipt for Deposit, Return or Retention of Deposit, 234 Pa. Code Rule 535 (2015), <https://www.pacodeandbulletin.gov/Display/pacode?file=/secure/pacode/data/234/chapter5/s535.html&d=reduce>.
- ⁴⁴ Receipt for Deposit, *supra* note 43.
- ⁴⁵ Receipts, Application of Deposit to Satisfy Fine and Costs, Refunds and Returns, Notice of Exoneration, 10 Cal Pen Code § 1297 (LexisNexis 2021), <https://advance-lexis-com.proxyiub.uits.iu.edu/api/document?collection=statutes-legislation&id=urn:contentItem:5JFB-0P21-DYB7-W07J-00000-00&context=1516831>.
- ⁴⁶ Bail, Cash Deposit, Use, MCLS § 765.6c (LexisNexis 2021), <https://advance-lexis-com.proxyiub.uits.iu.edu/api/document?collection=statutes-legislation&id=urn:contentItem:56VF-9D41-6RDJ-84B9-00000-00&context=1516831>.
- ⁴⁷ Payment of Fine with Bond Money, *supra* note 43.
- ⁴⁸ Release of Bail and Sureties, *supra* note 42.
- ⁴⁹ Fixing Terms of Bail, 19.2 Va. Code Ann. § 19.2-121 (LexisNexis 2021), <https://advance-lexis-com.proxyiub.uits.iu.edu>.

- edu/api/document?collection=statutes-legislation&id=urn:contentItem:62D1-V2T1-JKB3-X1VR-00000-00&context=1516831.
- ⁵⁰ Return of Cash Bond, Requirement to Withhold Unpaid Fines, Fees, Court Costs, Cash Bond Forms, 47 Fla. Stat. § 903.286 (LexisNexis 2021), <https://advance-lexis-com.proxyiub.uits.iu.edu/api/document?collection=statutes-legislation&id=urn:contentItem:5C24-MXB1-6SKW-D55N-00000-00&context=1516831>; Deposit of Money in Lieu of Bail, 16 A.C.A. § 16-84-115 (3) (LexisNexis 2021), <https://advance-lexis-com.proxyiub.uits.iu.edu/api/document?collection=statutes-legislation&id=urn:contentItem:4WVF-J1F0-R03M-90R8-00000-00&context=1516831>.
- ⁵¹ S. Bradford, Justice Policy Institute, For Better or for Profit: How the Bail Bonding Industry Stands in the Way of Fair and Effective Pretrial Justice (2012), http://www.justicepolicy.org/uploads/justicepolicy/documents/_for_better_or_for_profit_.pdf.
- ⁵² Disposition, 15 Code of Ala. § 15-13-42 (LexisNexis 2021), <https://advance-lexis-com.proxyiub.uits.iu.edu/api/document?collection=statutes-legislation&id=urn:contentItem:5CCY-HWN1-6RDJ-74DT-00000-00&context=1516831>.
- ⁵³ Bail to Be Posted in Cash, *supra* note 40; Definitions, 77 Utah Code Ann. § 77-32a-101 (LexisNexis 2021), <https://advance-lexis-com.proxyiub.uits.iu.edu/api/document?collection=statutes-legislation&id=urn:contentItem:8NGC-6FR2-8T6X-7002-00000-00&context=1516831>.
- ⁵⁴ T. R. Kochel et al., *Effect of Suspect Race on Officers' Arrest Decisions*, 49 *Criminology* 473 (2011).
- ⁵⁵ Arnold et al., *supra* note 16.
- ⁵⁶ Brunson, *supra* note 1; Quinn et al., *supra* note 1.