

# *The Predictors of Pre-Conviction Decisions in China: A Statistical Analysis Based on M City Court\**

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## *Abstract*

Many studies conducted in the West have found that a defendant's demographic characteristics affect pre-conviction decisions on his or her criminal release or detention. Few researchers, however, have addressed whether demographic factors are associated with such

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pre-conviction decision making in China. Using empirical data from the courts of M City, N Province, we analyzed the relationship between a defendant's demographic factors and pre-conviction dispositions in China using the ordered probit and ordinary least squares methods. We found both legal factors, such as criminal record and crime severity, and extralegal demographic factors, such as a defendant's gender, age, and employment status, to have a significant effect on pre-conviction decisions (e.g., the severity of coercive measures and duration of custodial measures). Our research contributes to the literature by incorporating new variables (the severity and duration of pre-conviction measures) and extending previous research to a non-Western context.

Decisions made at the pretrial stage of the judicial process are critical. They have the potential not only to deprive defendants of their freedom prior to conviction, but also to contribute to disparate outcomes in subsequent punishment decisions.<sup>1</sup> Although numerous studies have illustrated the significance of pre-conviction decisions, very few to date have examined the factors that affect those decisions,<sup>2</sup> and no consensus has been reached on this important issue. Several researchers have found current offense severity and criminal history to be the strongest predictors of pre-conviction decisions,<sup>3</sup> whereas others have shown such extralegal demographic variables as an offender's race/ethnicity, gender, age, and employment status to play an important role in pre-conviction decision making.<sup>4</sup>

Although Western criminology researchers have displayed interest in the predictors of pre-conviction decisions, the issue has long been overlooked by non-Western scholars. A more comprehensive understanding of pre-conviction decision making and its subsequent influence requires more research to be conducted across the globe. Since the 1990s, China has made three major revisions (in 1996, 2012, and 2018) to the 1979 Criminal Procedure Law (the 1979, 1996, 2012, and 2018 CPL hereinafter). Among the most important content of the two revisions in 1996 and 2012 was finding a way to reform the system of coercive measures. The focus of that reform was reducing the rate of pretrial detention. The system of coercive measures in 2018 CPL is completely the same as that in the 2012 CPL, as almost no articles related to the coercive measures system has been revised during the amendment of China's CPL in 2018.<sup>5</sup>