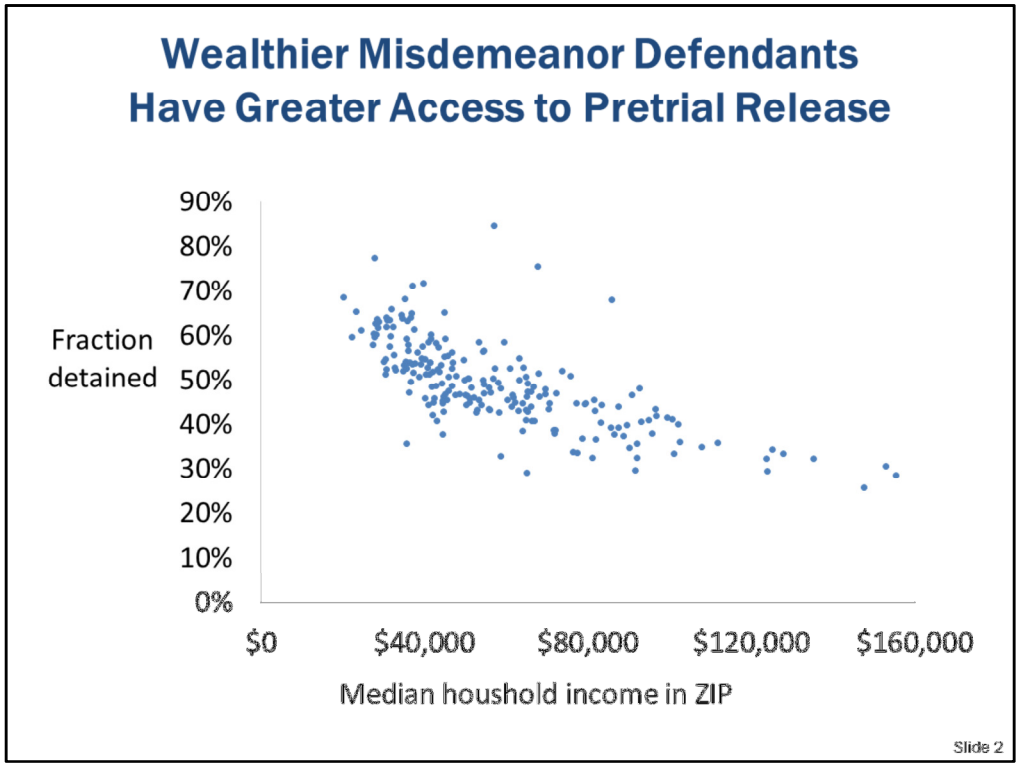
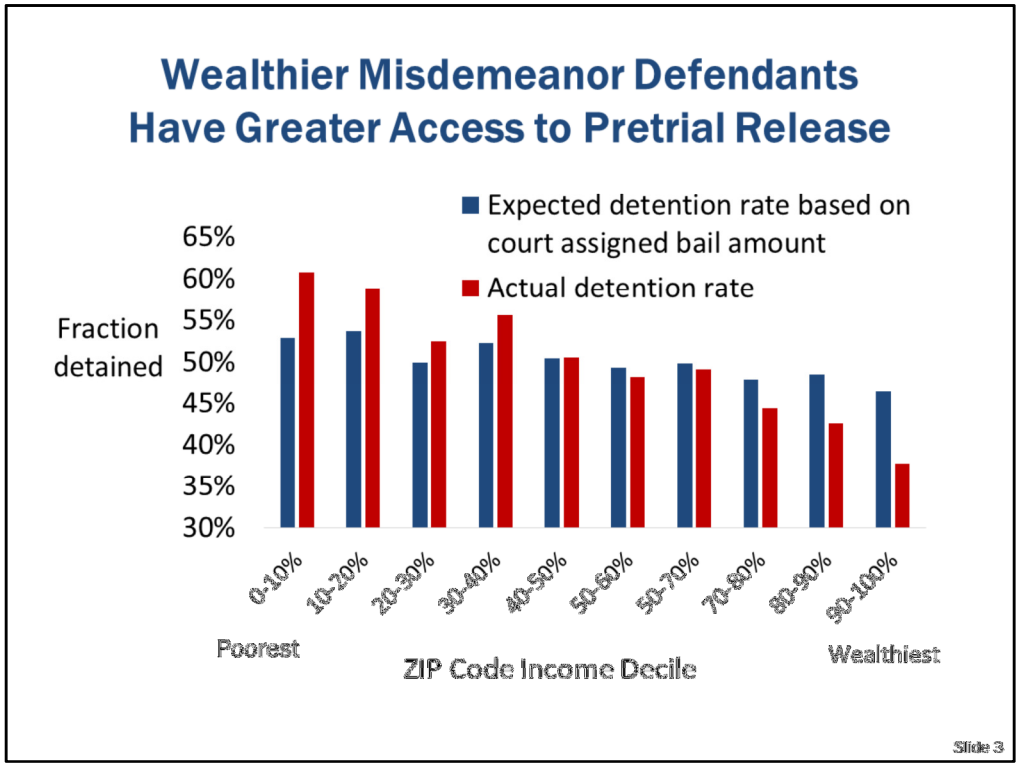
The presentation summarizes result from a new research study by the Quattrone Center for the Fair Administration of Justice at the University of Pennsylvania Law School. The study seeks to measure the effects of pretrial detention on case outcomes and future crime in Harris County, Texas. Results from the study can assist stakeholders in their efforts to improve pretrial detention policy and reduce the county's jail population, while ensuring fairness and enhancing public safety. Questions regarding the study can be directed to Paul Heaton at pheaton@law.upenn.edu.



Data for the study were derived from the court docket sheets maintained by the Harris County District Clerk. We focus attention on 380,689 misdemeanor cases filed between 2008 and 2013. For each case, we observe the defendant name, address, and demographic information; prior criminal history; and top charge. We also observe the time of the bail hearing, bail amount, whether and when bail was posted, judge and courtroom assignment, motions and other metrics of procedural progress, and final case outcome, including whether the case was resolved through a plea. We linked the court records to future crime incidents involving each defendant for up to 18 months post-bail hearing, and we also linked defendants to their neighborhood Census demographic data by ZIP code.

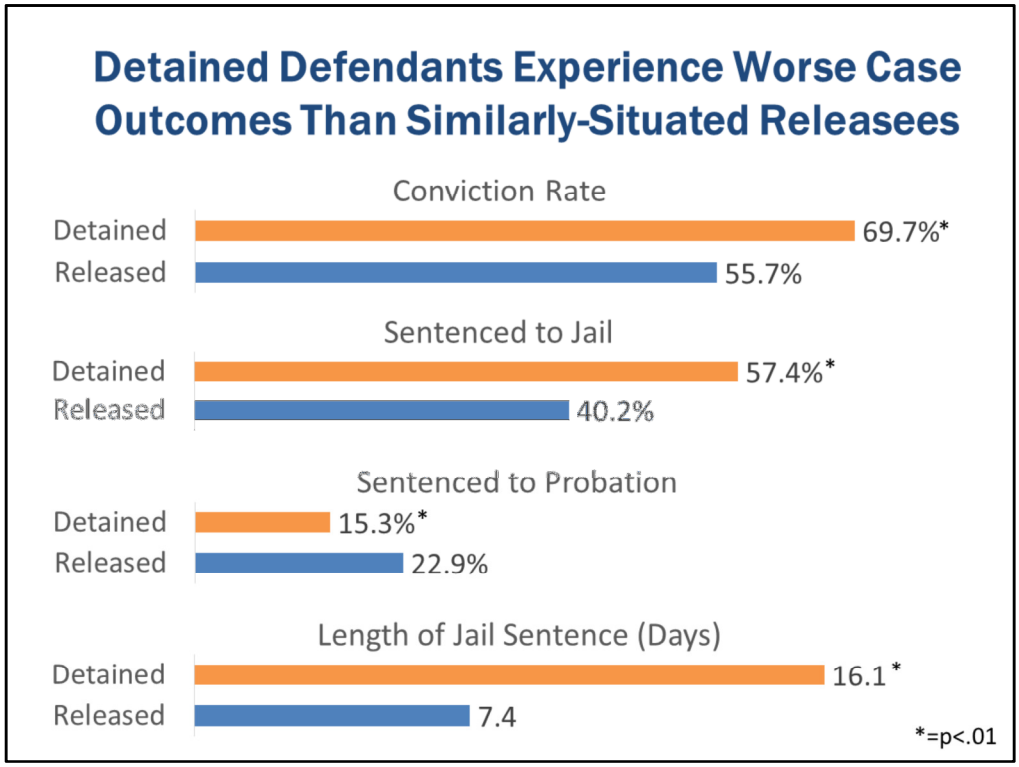
The chart above demonstrates that there is a strong relationship between defendant wealth—as proxied by median household income in their ZIP code of residence—and their likelihood of pretrial release. Each dot in the chart represents a ZIP code, and the vertical axis plots the average rate of pretrial release among all misdemeanor defendants residing in each ZIP code. Whereas only about 1/3 of misdemeanor defendants from the wealthiest ZIP codes are detained, for the poorest ZIP codes, the detention rate is about 2 in 3.



If those residing in poorer ZIP commit more serious misdemeanors, or have more extensive criminal histories, we might observe high detention rates simply because the bail system is functioning as intended—assigning higher bail amounts to those who represent a high flight risk or risk to public safety. However, the wealth/detention relationship persists when we carefully account for the sorting function of bail, as we do in the chart above.

To construct the chart, we matched each defendant in the sample to all other defendants assigned the exact same dollar bail amount (and who thus, from the perspective of the court, were judged to be of comparable "worthiness" for bail), and then calculated the fraction of these peers who were detained. This gives us the expected detention rates, which are represented by the chart's blue bars. These expected rates tell us what should happen to a defendant if treated the same as the typical defendant assigned their bail amount.

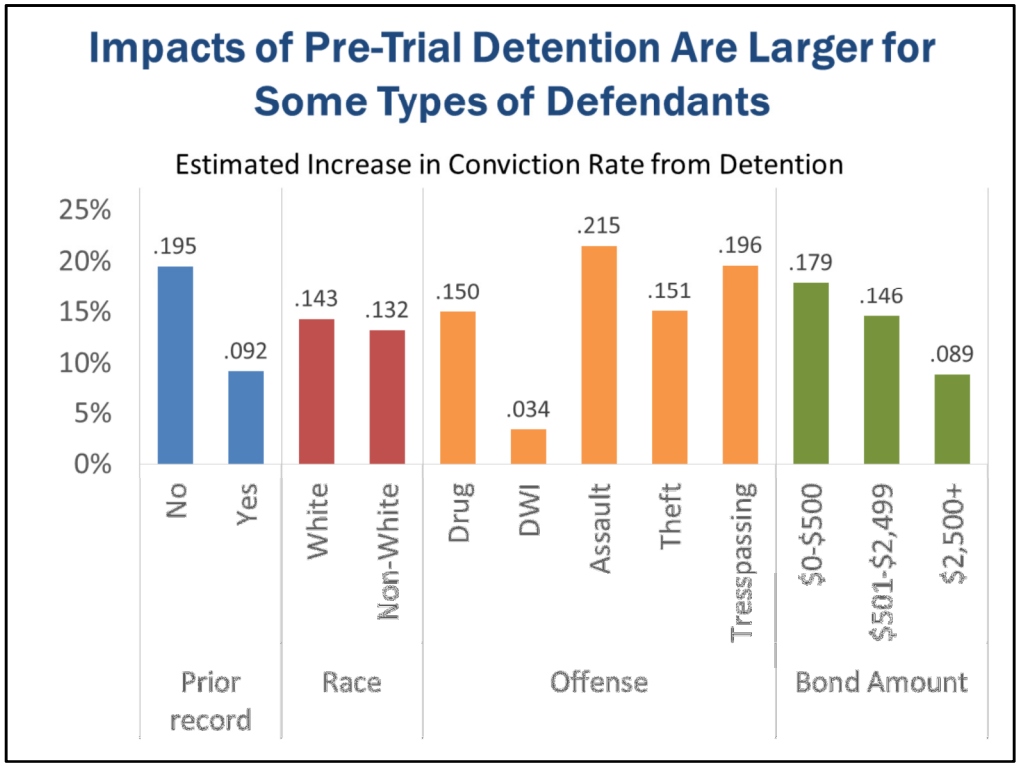
We then grouped the defendants according to their wealth decile, and calculated the true group detention rates (red bars). For the poorest defendants, actual detention rates are appreciably above the expected detention rates, while the reverse is true for wealthy defendants. Because we are only comparing defendants with others who have the exact same bail amount, these differences should not be attributable to any factors that the court is able to consider in setting bail. There is thus strong evidence that wealth is an important factor predicting who has access to pretrial release.



Disparities in access to release may be of concern if detention affects case outcomes or future offending. Our main analyses sought to measure the effect of detention on such outcomes. By "effect", we mean the difference in outcomes that would occur comparing a situation where a particular defendant were detained pretrial, versus a situation where that same defendant under otherwise identical circumstances were released. Knowing the effect of detention is vital for understanding the consequences of any policy actions (e.g. risk scoring) that might alter who gets detained and released before trial.

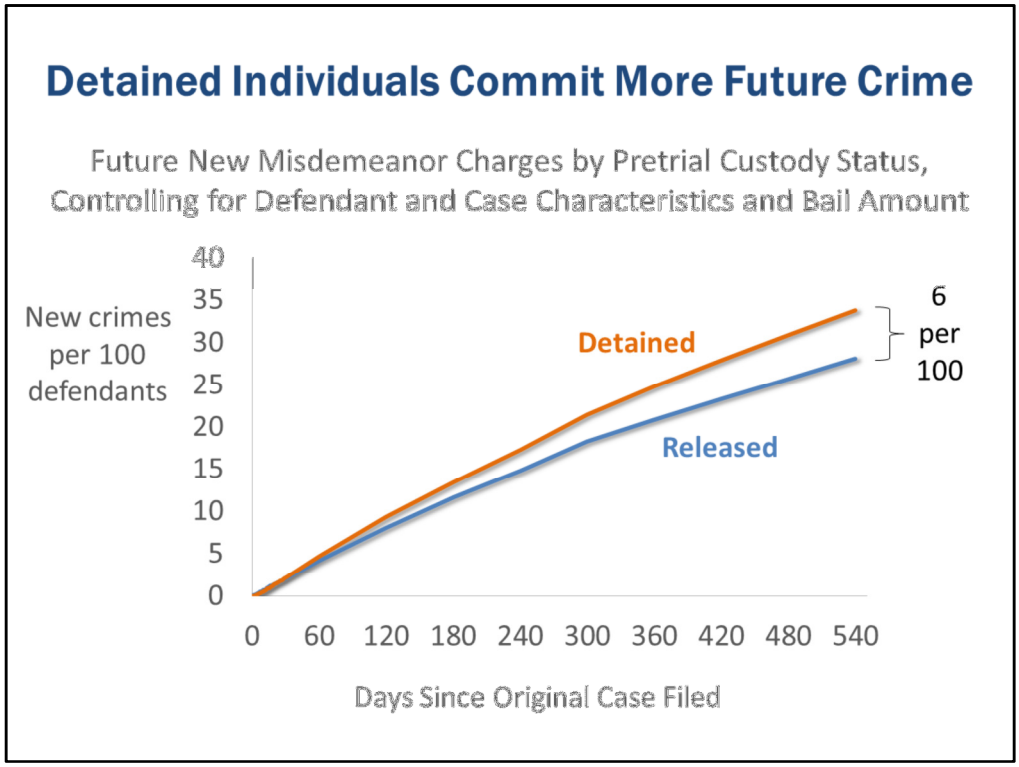
To measure the effect of detention, we estimated statistical models where case outcomes (e.g. conviction) were modeled as a function of whether an defendant was detained, and we controlled for hundreds of additional variables capturing demographics (age, race, gender, citizenship, ZIP code), charged offense, prior criminal history, judge and case timing, and presence of appointed counsel. Importantly, we also controlled for exact bail amount in our analysis, so we were in effect comparing outcomes across defendants similarly situated across all the dimensions listed above (i.e. same age, offense, prior criminal history, etc.), who were also assigned exactly the same bail amount by the court. The bars in the chart above show case outcomes for releasees as compared to similarly situated detainees, and the differences between the orange and blue bars reflect the effect of pretrial detention.

Detention has a large effect on case outcomes. Detainees are 25% more likely to be convicted, 43% more likely to receive a jail sentence, and are sentenced to more than twice as many days in jail as compared to similarly situated releasees.



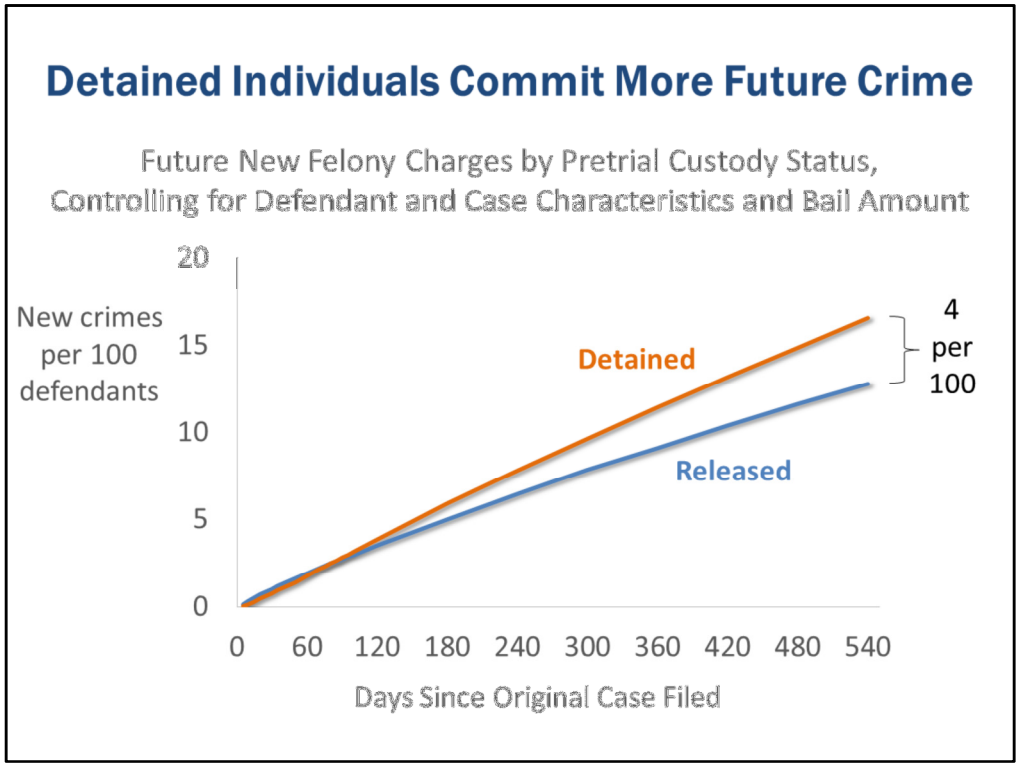
We also measured the effects of detention for particular subpopulations. In this chart, we plot the effects of detention on conviction for various groups, where we have once again controlled for a broad set of characteristics including assigned bail amount. Comparing the height of the bars across groups allows us to see which groups are most affected by detention. For example, the fact that the bars are much higher for those charged with assault as compared with those charged with DUI tells us that when assault defendants are detained, they are much more likely to be convicted as a result of their detention than DWI defendants, whose conviction outcomes are not very sensitive to whether or not they are detained.

An important pattern above is that some of the largest impacts of detention accrue to low-level defendants—those with no prior record or with a bond amount equal to $500 or less. For example, an additional 20% those with no prior history are convicted when detained, as compared to what would be expected if those same individuals had been released. This pattern could result from a greater willingness of those experiencing detention for the first time to plead guilty in order to obtain release. Because the lowest-level defendants appear particularly responsive to detention, a policy reform that liberalized access to pre-trial release for those with low-level charges could be an attractive option for addressing jail overcrowding.



Beyond the immediate case, we also looked to see whether pre-trial detention affects future criminal activity. Pre-trial detention could affect future crime through a number of channels—for example, through incapacitation, by affecting the length of supervision or expected sanctions following a new offense, by changing perceptions regarding the disutility of incarceration, by introducing an offender to new peers, or by fostering collateral consequences (e.g. employment instability) that affect the attractiveness of crime in the future. We measured future crime based upon newly filed charges in Harris County, and observed defendants for up to 18 months after their initial bail hearing.

The blue line in the chart above shows the trajectory of future crime for releasees. By 18-months post hearing, a pool of 100 misdemeanor defendants who were not detained on average committed a total of 28 new misdemeanors. For similarly situated detainees (where we have again controlled for hundreds of different variables to place the detainees on equal footing with the releasees), there were 34 misdemeanors committed, an increase of 6 misdemeanors. Importantly, this higher offending rate among detainees cannot be attributed to the fact that judges assign higher bail amounts to detainees whom they recognize to have a higher propensity to commit crime, because the analysis already controls for the precise bail amount. These patterns suggest the pre-trial detention—while effective at reducing offending in the short term through incapacitation—ultimately increases crime. This finding is consistent with other recent empirical work, including some work looking at Harris County, that suggests that the experience of incarceration can be criminogenic.



We see a similar pattern when we examine future felonies. While detainees commit fewer felonies than similarly-situated releasees in the first 60 days after the bail hearing—likely due to incapacitation—by 18 months out, an additional 4 felony charges per 100 defendants are attributable to pre-trial detention.

To put our findings in perspective, we considered a simple thought experiment—imagine if, during the six years from 2008-2013, we had given personal bonds to all those who were assigned cash bail of $500 or less, instead of making them post bail? Based on our results, we would predict that roughly 40,000 additional individuals would have been released pre-trial, and this population would have avoided nearly 6,000 criminal convictions and 400,000 days of incarceration, with the associated collateral consequences. The affected defendants would have collectively been involved in 1,600 fewer felonies and 2,400 fewer misdemeanors in the 18 months post-pre-trial-release. Using very conservative numbers, the county would have saved $20 million in supervision costs alone.

Although we considered one particular policy change above—offering release to the lowest-level defendants--the results from our analysis could be used to project the effects of a range of other changes to its policies governing pretrial release that the County might wish to consider.

Overall, this study demonstrates that by optimizing its methods for deciding which misdemeanor defendants should be detained pretrial, Harris County could save taxpayers money, reduce criminal convictions and their collateral consequences, and increase public safety.

Appendix—Additional Tabulations

Table A1: Detention Rates by Initial Bail Amount

Initial Bail Amount	Fraction Detained	Fraction Released	# of Defendants
$500	22.4%	77.6%	112,856
$1,000	30.9%	69.1%	56,855
$1,500	40.6%	59.4%	30,281
$2,000	50.0%	50.0%	19,448
$2,500	49.1%	50.9%	17,260
$3,000	59.5%	40.5%	11,836
$3,500	59.0%	41.0%	9,556
$4,000	66.7%	33.3%	7,730
$4,500	70.2%	29.8%	4,971
$5,000	69.1%	30.9%	80,711

Table A2: Detention Rates by Wealth

Neighborhood (ZIP) Income Quintile	ZIP Average Annual Household Income	Neighborhhood (ZIP) Poverty Rate	Fraction Detained	# of Defendants
1	$28,643	31.6%	53.9%	65,480
2	$37,393	23.5%	47.4%	66,509
3	$45,284	17.3%	41.3%	62,250
4	$59,100	11.6%	36.9%	67,514
5	$84,771	6.6%	29.0%	60,336