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Cash Bail System Damages Defendants, May Harm Public Safety

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For defendants who can't make bail, the repercussions don't just end with pretrial confinement, according to new research from the [Quattrone Center for the Fair Administration of Justice](#) at the University of Pennsylvania Law School. Two new studies from the Center find that defendants subject to pretrial detention are more likely to be convicted and less likely to receive favorable plea terms than similarly situated defendants who make bail. Moreover, those who experienced pretrial detention committed more crimes after their release than similarly situated individuals who made bail, calling into question the public safety benefits of widespread detention through money bail, particularly in low-level cases.

Based on these findings, the Center recommends that jurisdictions consider reducing reliance on money bail in misdemeanors and other non-violent, low-level offenses. Such strategies advance a variety of bipartisan community goals, including reducing costly incarceration, while actually improving public safety and reducing crime overall.

[The first of the studies](#), conducted by Quattrone Center academic director [Paul Heaton](#) and Center fellows [Sandra Mayson](#) and [Megan Stevenson](#) and forthcoming in the *Stanford Law Review*, examines the consequences of misdemeanor pretrial detention in Harris County, Texas — the third-largest county in the United States — using data from 380,689 misdemeanor cases filed between 2008 and 2013. [The second study](#), by Stevenson, analyzes pretrial detention in Philadelphia for all criminal cases which had a bail hearing between September 13, 2006 and February 18, 2013.

Heaton is a leading economist looking at the criminal justice system, specializing in data-driven studies of crime, courts, and legal policy. Mayson is a lawyer and criminal law scholar; and Stevenson is an economist studying crime and the criminal justice system.

“Often the poor can’t afford even relatively low amounts of money bail, and the effects of even a few days of jail can be severe, such as the loss of a job or housing,” said Stevenson. In Harris County, roughly 50 percent of misdemeanor defendants do not make bail, and in Philadelphia, that number is around 25 percent. Even at bail bond amounts of \$50, almost half of Philadelphia defendants are detained for more than three days.

“Defendants in these cases have an incentive to plead quickly to secure release, which may contribute to widespread errors in case adjudication, and have ripple effects as individuals come into further contact with the criminal justice system down the line,” said Heaton. Misdemeanor convictions can result in jail time, heavy fines, invasive probation requirements, and collateral consequences that include deportation, loss of child custody, ineligibility for public services, and barriers to finding employment and housing.

In Harris County, misdemeanor defendants incarcerated pretrial were 25 percent more likely to plead guilty, 43 percent more likely to be sentenced to prison, and received sentences more than double the length of those received by similarly situated defendants who were not incarcerated pretrial.

In Philadelphia, felony and misdemeanor defendants detained pretrial were 13 percent more likely to be convicted than similarly situated defendants who were not detained. In addition, detained defendants received sentences five months longer and owed an average of \$128 more in court fees.

“Our research suggests that the bail hearing is a critical stage in the criminal process,” said Mayson, “which would mean that defendants have a Sixth Amendment right to representation.” Currently many jurisdictions, including Philadelphia and Harris County, do not provide representation for poor defendants at the bail hearings. Bail hearings often last only a minute or two and occur over video conference.

In addition to affecting the outcome of the immediate case, in Harris County pretrial detention had a criminogenic impact — it appeared to cause an increase in crime after those detained had served their sentences. After carefully accounting for the fact that those detained pretrial are more criminally involved than those who post bail, the research showed that detainees committed, on average, 22 percent more misdemeanors and 33 percent more felonies than similarly situated releasees within 18 months after the bail hearing.

Reducing reliance on cash bail, as the Center recommends, would have had a significant

financial and public safety impact on the county. If Harris County had eliminated cash bail for individuals whose bonds were set at \$500 during the study's time period (2008–2013), the county would have reduced incarceration by 400,000 inmate days, saved \$20 million in jail supervision costs, and reduced crime in Harris County by 1,600 felonies and 2,400 misdemeanors.

The Quattrone Center is a national research and policy hub created to catalyze long term structural improvements to the U.S. criminal justice system. The Center takes an interdisciplinary, data-driven, scientific approach to identifying and analyzing the most crucial problems in the justice system, and proposing solutions that prevent error and improve fairness. Its research and programs are independent and unbiased, engaging all system stakeholders to effect change for the better.



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