

# The Economic Costs of Pretrial Detention

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# Motivation

- ▶ The United States has 5% of the world's population but 25% of its prison population
- ▶ The costs of such mass incarceration likely significant, with an estimated 8 (33) percent of the adult (Black) population having a felony conviction
- ▶ We focus on the pretrial (or bail) system, a key part of our criminal justice system that impacts the 10 million individuals arrested year

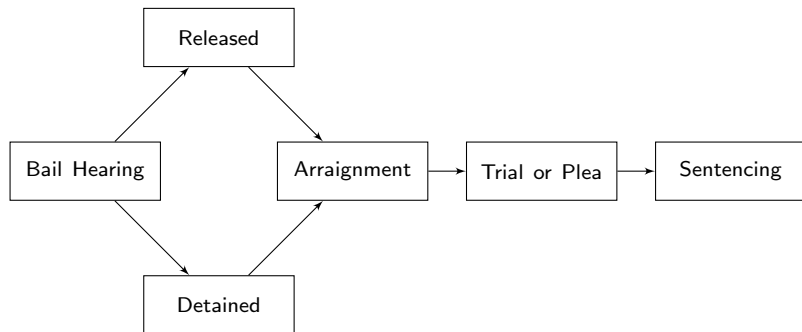
# Outline

- 1 Brief Overview of the Pretrial System
- 2 National Trends in Pretrial Detention and Economic Outcomes
- 3 The Economic Consequences of Pretrial Detention

# The Pretrial System in the United States



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- ▶ By law, the bail system is generally meant to accomplish three goals:
  - ▶ Release almost all defendants before trial under reasonable conditions
  - ▶ Ensure that all defendants appear at court proceedings
  - ▶ Protect the public by preventing new crime
- ▶ However, heated debate on whether system “works” in practice
  - ▶ Pretrial detention often seems to be the result of poverty, not guilt
  - ▶ Detention can disrupt employment, etc. for those already on the margin
  - ▶ Significantly higher detention rates for minority defendants
- ▶ As a result, many jurisdictions are reforming their bail systems
  - ▶ Risk-based assessment tools to limit judicial discretion
  - ▶ Electronic monitoring and supervised release for low-risk defendants
  - ▶ Community organizations that post bail for defendants

# Conditions of Release

1. Release on Recognizance (ROR)
  - ▶ Release on promise to return for court with no other conditions
  - ▶ Used when minimal risk of flight and pose no threat to public
2. Non-Monetary Bail/Conditional Release
  - ▶ Release subject to restrictions like monitoring, halfway houses, etc.
  - ▶ Used when some risk of flight or some threat to public
3. Monetary Bail/Money Bail
  - ▶ Release subject to payment of typically 10% of the bail amount; liable for the remaining 90% if commit a new crime or miss court appearance
  - ▶ Used when significant risk of flight or threat to the public
4. Denial of Bail
  - ▶ Often mandatory in first or second degree murder cases
  - ▶ Used for other crimes when severe risk of flight or threat to the public

# Why the Pretrial System May Affect Economic Outcomes

“Our clients work in service-level positions where if you’re gone for a day, you lose your job...People who live in shelters, where if they miss their curfews, they lose their housing. Folks with immigration concerns are quicker to be put on the immigration radar. So when our clients have bail set, they suffer on the inside, they worry about what’s happening on the outside, and when they get out, they come back to a world that’s more difficult than the already difficult situation that they were in before.”

– Defense attorney speaking to the NY Times



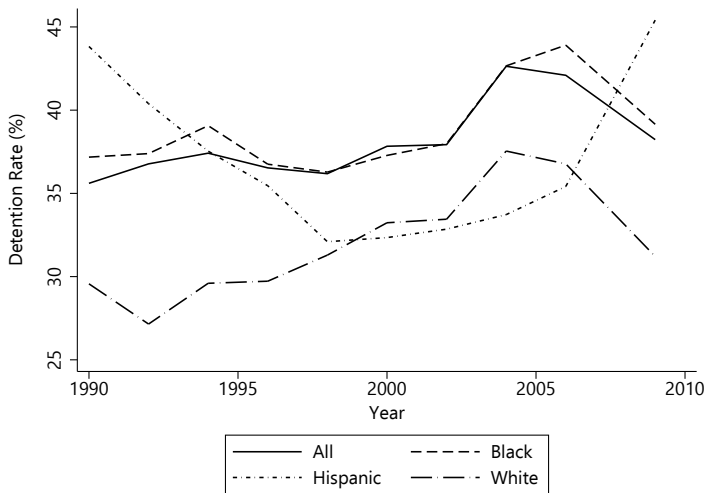
# Why the Pretrial System May Affect Economic Outcomes

- ▶ Partial Equilibrium Effects on Detained Individuals
  - ▶ Short-run incapacitation effect can result in immediate job loss
  - ▶ Longer-run destabilizing effect can lower labor demand through stigma of conviction (Pager 2003, Agan and Starr 2018)
- ▶ General Equilibrium on Other Individuals
  - ▶ Spillover effects on family members, friends, community
  - ▶ Intergenerational effects on children given that majority of detained have children under 18
- ▶ Estimates of just the partial equilibrium effect of pretrial detention on detained defendants may therefore understate the general equilibrium effect of pretrial detention policies

# Outline

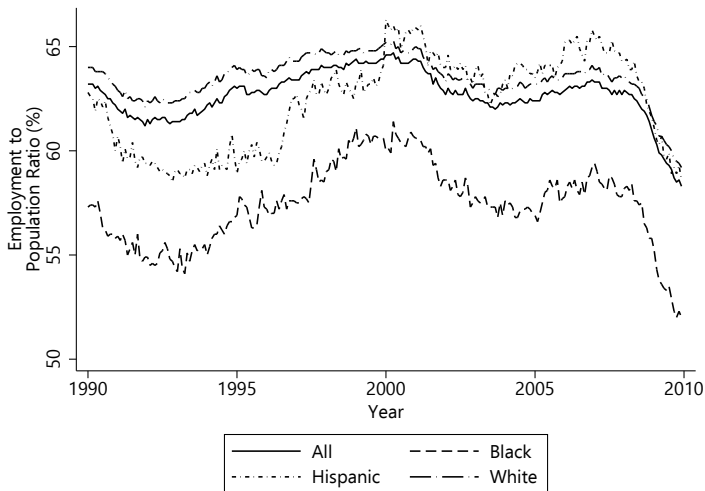
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## Pretrial Detention Rates, 1990–2009



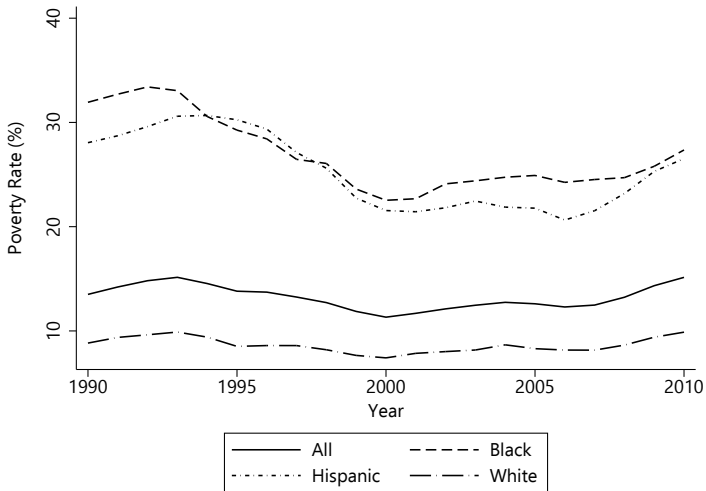
Note: Data from the State Court Processing Statistics (SCPS). Uses county-year level SCPS weights to report the share of arrested felony defendants detained pretrial in a representative sample of the nation's 75 most populous counties from 1990-2009.

# Employment-to-Population Ratios, 1990–2010



Note: Data from the Bureau of Labor Statistics' Current Population Survey (Household Survey).

# Poverty Rates, 1990–2010



Note: Data from the Census Bureau's Current Population Survey (Annual Social and Economic Supplement).

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**Table:** Pretrial Detention and Individual Outcomes from Dobbie, Goldin, and Yang (2018)

	Detained Mean	2SLS Estimates	NPV Estimates
	(1)	(2)	(3)
<i>Panel A: Binary Outcomes</i>			
Any Formal Sector Earnings	0.378 (0.485)	-0.094 (0.057)	-
Any Unemployment Insurance	0.064 (0.246)	-0.013 (0.033)	-
Any Earned Income Tax Credit	0.233 (0.423)	-0.105 (0.049)	-
<i>Panel B: Outcomes in Dollars</i>			
Formal Sector Earnings	5,887 (15,897)	-948 (1,128)	-18,961
Unemployment Insurance	245 (1,335)	-293 (193)	-5,860
Earned Income Tax Credit	357 (998)	-209 (127)	-4,180
Observations	144,290	334,943	-

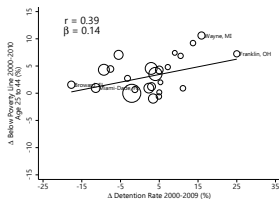
Note: All outcomes are measured 3-4 years after an individual's arrest using administrative tax data. NPV is calculated using a 3% discount rate, assuming that the gains remain constant. Standard deviations (Column 1) and robust two-way clustered S.E.s (Column 2) are reported.

- ▶ One of the more ambitious reforms under consideration is the elimination of money bail, which would likely reduce detention rates to approximately 10%
- ▶ Our partial equilibrium estimates suggest that such a reduction in pretrial detention would increase aggregate income by up to \$80.91 billion per year
- ▶ A natural question is whether there is a relationship between changes in detention and changes in economic outcomes in the aggregate data

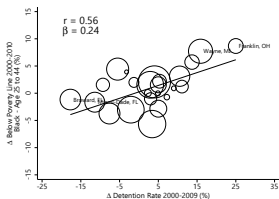


# Changes in County Detention and Poverty Rates

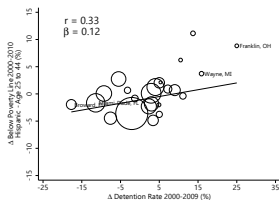
Panel A: All Individuals



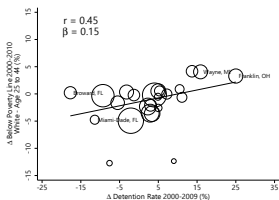
Panel B: Black Individuals



Panel C: Hispanic Individuals



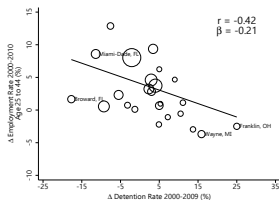
Panel D: White Individuals



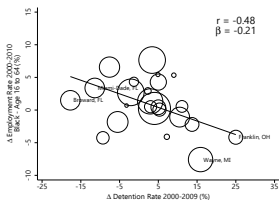
Note: Changes in county detention and poverty rates from 2000-2009/10 for individuals age 25-44. Estimates are weighted using the race/age-specific county population in 2000.

# Changes in County Detention and Employment Rates

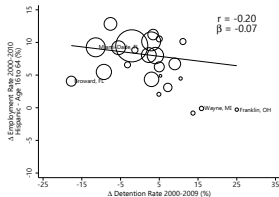
Panel A: All Individuals



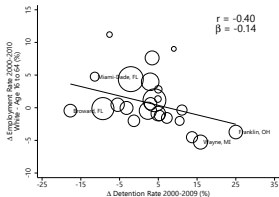
Panel B: Black Individuals



Panel C: Hispanic Individuals



Panel D: White Individuals

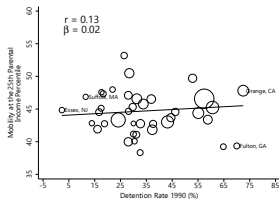


Note: Changes in county detention and employment rates from 2000-2009/10 for individuals age 25-44 in Panel A, and age 16-64 in race-specific Panels B-D. Estimates are weighted using the race/age-specific county population in 2000.

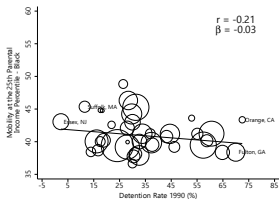
- ▶ Back-of-the-envelope calculations suggest that the elimination of money bail would have led to counterfactual:
  - ▶ Poverty rate decrease from 2000–2010 by 0.45–1.58pp for all working-age, and by 6.67–9.66pp for Black working-age
  - ▶ Employment rates increase from 2000–2010 by 7.55–10.40pp for all working-age, and by 7.52–13.80pp for Black working-age
  - ▶ Decrease in *racial gaps* in poverty and employment rates
- ▶ All of these calculations are larger than the corresponding calculations based on our partial equilibrium estimates discussed above

# Detention Rates and Intergenerational Mobility

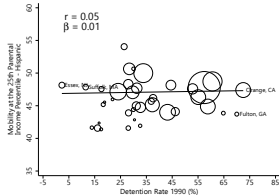
Panel A: All Individuals



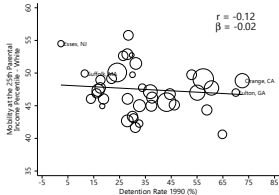
Panel B: Black Individuals



Panel C: Hispanic Individuals



Panel D: White Individuals



Note: County detention and income percentiles for children born 1978-1983 to parents at the 25th income percentile. Estimates are weighted using the race-specific county population in 2000.

# Conclusion

- ▶ The United States pretrial system is a highly consequential stage that affects over 10 million arrested individuals each year
- ▶ Pretrial detention has a range of long-lasting economic costs that is disproportionately borne by low-income and minority communities
- ▶ Our results suggest that reducing the scope of the pretrial system would likely generate significant economic returns