

CAMPAIGN TO REFORM MONEY BAIL

REFORMING MONEY BAIL

A Tool to Reduce the Criminalization of Poverty

In a money bail system, people in jail are required to pay money up front in order to secure release while waiting for trial. Lack of consideration for an individual's income often makes money bail unaffordable, leaving many to remain incarcerated for weeks, months, or even years while awaiting trial and presumed innocent simply because they do not have enough money. This overreliance on money bail has disproportionately negative impacts low-income people and people of color, their families and their communities. Even a short amount of time in jail can significantly exacerbate economic hardships for low-income individuals and, as a result, increase the length of involvement with the criminal justice system.

Money Bail Presents a Serious Financial Hardship for Low-Income People and Can Significantly Disrupt an Individual's Life

- In one major U.S. city, 87 percent of cases in which bail was set at 1,000 or less, defendants could not afford to post bail.¹
- Time spent in pretrial detention could result in job loss for individuals who miss work while detained.²
- People in pretrial detention risk losing stable housing and their means of transportation.
- People who are applying for a public benefit that would stabilize their situation may miss important eligibility determination appointments and those who are receiving public benefits may lose them. Both will be forced to reapply and often will go without financial or food assistance for weeks, if not months, after they have been released.
- People will lose their health insurance (or have it suspended) and be required to apply again.
- Parents may lose custody of their children³ and caretakers will have people they care for subject to institutionalization.
- If this person's earned income or disability benefits contributed to the housing or food security of their family, their family also suffers many of these same negative economic outcomes.

Money Bail Disproportionately Impacts People Who are Homeless

- People who are homeless are often targeted for arrest through the criminalization of such activities as resting in public, sharing or preparing food outside and sitting in their vehicles, even when they are legally parked.⁴ A recent brief issued by the U.S. Department of Justice establishes that this type of criminalization of people who are homeless is unconstitutional.⁵ Though tickets resulting from these basic human activities (sometimes referred to as quality of life ordinances) rarely result in arrest and imprisonment by themselves, the inability to pay tickets and related fines often result in bench warrants or findings on probation or parole non-compliance that do result in denial of services or time in jail.⁶
- There are fewer shelter beds than there are homeless individuals⁷ in most American cities. Time spent in jail can cause homeless individuals to lose their spot in a shelter.⁸
- In California, Black and Latino people are more likely to be homeless than white people.

The Commercial Bail Industry Profits from Money Bail by Stripping Limited Resources from Low-Income Communities

- Commercial bail bonds typically charge a nonrefundable 10 percent fee, making bail out of reach for most low-income people and creates a significant hardship to those who can secure it, even when charges are dropped or a person is determined to be innocent.
- Families that do not have enough money in savings to afford the 10 percent nonrefundable fee up front, often feel pressured to pay for the fee by putting their home or other asset up as collateral so as to prevent the pretrial detention of their loved one.⁹
- Commercial bonds, which require a nonrefundable fee, are used up to fifteen times as often as unsecured bonds in some states.¹⁰

Pretrial Detention Exacerbates Racial Disparities in the Criminal Justice System

- African Americans are detained at a rate that is 5 times higher than white people.¹¹
- Black defendants are less likely to be released on their own recognizance than white defendants.¹²
- Black defendants ages 18 through 29 received higher bail amounts than any other group.¹³

Pretrial Detention and Inability to Post Bail Can Result in Low-Income Individuals Pleading Guilty to Crimes They Did Not Commit

- Prosecutors may ask judges to detain individuals as leverage when convincing low-income individuals to enter a plea bargain.¹⁴
- The vast majority of people do not get a jury trial. In 2006, 96 percent of convictions were the result of guilty pleas; only 4 percent of convictions resulted from actual trials.¹⁵
- Unable to afford bail or the costs associated with days in jail and facing a loss of housing, transportation or employment while waiting in jail for what is often an untimely trial, some people have said that they have plead guilty in order to be released.

Pretrial Detention Increases Likelihood of Negative Criminal Justice & Public Safety Outcomes

People who are incarcerated while awaiting trial are more likely to:

- Be convicted (even when innocent);
- Receive a harsher sentence, including more time in jail or prison;
- Be injured or contract a serious (and costly) disease; and,
- Return to the criminal justice system in the future.¹⁶

MEMBERS OF CAMPAIGN TO REFORM MONEY BAIL



¹ HUMAN RIGHTS WATCH, THE PRICE OF FREEDOM: BAIL AND PRETRIAL DETENTION OF LOW INCOME NONFELONY DEFENDANTS IN NEW YORK CITY 2 (2010)

² JUSTICE POLY INST., BAIL FAIL: WHY THE U.S. SHOULD END THE PRACTICE OF USING MONEY FOR BAIL 13 (2012).

³ AMANDA GULLINGS, CTR. ON JUNEVILE & CRIMINAL JUSTICE, THE COMMERCIAL BAIL INDUSTRY: PROFIT OR PUBLIC SAFETY? 8 (2012)

⁴ THE NAT'L LAW CTR. ON HOMELESSNESS & POVERTY, NO SAFE PLACE: THE CRIMINALIZATION OF HOMELESSNESS IN U.S. CITIES, AVAILABLE AT: [HTTP://WWW.NLCHP.ORG/CONTENT/PUBS/11.14.11%20CRIMINALIZATION%20REPORT%20&%20ADVOCACY%20MANUAL,%20FINAL1.PDF](http://www.nlchp.org/content/pubs/11.14.11%20CRIMINALIZATION%20REPORT%20&%20ADVOCACY%20MANUAL,%20FINAL1.PDF)

⁵ JUSTICE DEPARTMENT FILES BRIEF TO ADDRESS THE CRIMINALIZATION OF HOMELESSNESS, AUGUST 6, 2015. [HTTPS://WWW.JUSTICE.GOV/OPA/PR/JUSTICE-DEPARTMENT-FILES-BRIEF-ADDRESS-CRIMINALIZATION-HOMELESSNESS](https://www.justice.gov/opa/pr/justice-department-files-brief-address-criminalization-homelessness)

⁶ CALIFORNIA'S NEW VAGRANCY LAWS: THE GROWING ENACTMENT AND ENFORCEMENT OF ANTI-HOMELESSNESS IN THE GOLDEN STATE, U.C. BERKELEY SCHOOL OF LAW POLICY ADVOCACY CLINIC, FEBRUARY 2015, AVAILABLE AT: [HTTP://WRAPHOME.ORG/?P=4042&OPTION=COM_WORDPRESS&ITEMID=119](http://wraphome.org/?p=4042&option=com_wordpress&Itemid=119)

⁷ WITHOUT HOUSING, WESTERN REGIONAL ADVOCACY PROJECT, AVAILABLE AT: [HTTP://WWW.WRAPHOME.ORG/DOWNLOADS/WITHOUT_HOUSING.PDF](http://www.wraphome.org/downloads/without_housing.pdf)

⁸ THE NAT'L LAW CTR. ON HOMELESSNESS & POVERTY, NO SAFE PLACE: THE CRIMINALIZATION OF HOMELESSNESS IN U.S. CITIES

⁹ THE ABELL FOUND., THE PRETRIAL RELEASE PROJECT: A STUDY OF MARYLAND'S PRETRIAL RELEASE AND BAIL SYSTEM 36 (2011).

¹⁰ ID.

¹¹ JUSTICE POLY INST., SUPRA NOTE 2, AT 15.

¹² JOHN WOOLDREDGE, DISTINGUISHING RACE EFFECTS ON PRETRIAL RELEASE AND SENTENCING DECISIONS, JUSTICE QUARTERLY, 29 (2012).

¹³ JOHN WOOLDREDGE, SUPRA NOTE 9, AT 29.

¹⁴ JUSTICE POLY INST., 25

¹⁵ CAL. STATE COURT PROCESSING, FELONY DEFENDANTS IN LARGE URBAN COUNTIES REPORTS 1992-2006

¹⁶ ARPIT GUPTA, CHRISTOPHER HANSMAN, & ETHAN FRENCHMAN, THE HEAVY COSTS OF HIGH BAIL: EVIDENCE FROM JUDGE RANDOMIZATION 2 (2016); LAURA & JOHN ARNOLD FOUND., PRETRIAL CRIMINAL JUSTICE RESEARCH 3 (2013).