



A VISION FOR BLACK LIVES:

POLICY DEMANDS FOR BLACK POWER, FREEDOM, & JUSTICE

An End To Money Bail, Mandatory Fines, Fees, Court Surcharges, and “Defendant Funded” Court Proceedings

What is the problem?

- Low-income people who are arrested spend an average of 23 days in a cage *before* their day in court simply because they often cannot afford to pay bail. For people who live paycheck to paycheck, even a short stint in jail can have devastating consequences including job loss, eviction, or having their children taken away. This is true even when they are not convicted.
- According to a 2010 Human Rights Watch report, for 72.3 percent of misdemeanor cases in New York, bail was set at \$1,000 or less and still defendants could not pay the bail amount.
- Bail is not only inhumane, it is costly. A 2010 Human Rights Watch report calculated that New York City was paying \$42 million a year to incarcerate non-felony defendants. Local jurisdictions now spend \$22.2 billion every year on correctional institutions.
- Bail, like all things criminal justice related, is also racially discriminatory. Black defendants have 44 percent higher odds of being denied bail and kept in jail pretrial than white defendants with similar legal circumstances.

What does this solution do?

- The U.S. should initiate legislation to eliminate the bail system and capture the billions of dollars in savings to support more effective and humane alternatives to criminalization.

Federal Action:

- Target: Legislative
- Process: Initiate federal legislation to eliminate the federal bail system and use savings to fund strategies of pretrial release which have been proven to show no increased risk to public safety or risk of failure to appear at a designated court date.

State Action:

- Target: Legislative
- Process: State legislatures should pass laws that ban the use of cash bail and limit detention to situations where defendant is a clear danger to others. Savings from abolishing bail should be captured to fund strategies of pretrial release and community based responses to harm. Alternatively, legislation can require local and county officials to reduce local jail populations by eliminating the bail schedule and instead put in place policies like pretrial release and pre-booking diversion strategies.
- Target: Legislative

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- Process: Local Judges should be mandated to prioritize pretrial release strategies while protecting the employment, housing, and education conditions of persons awaiting trial.

How does this solution address the specific needs of some of the most marginalized Black people?

- Black women suffer disproportionately from the trappings of bail. 72 percent of incarcerated women made less than \$22,000 annually prior to arrest, as compared to 51 percent of men; and the median income of incarcerated Black women prior to arrest was \$12,735 in 2014.
- Homeless people are some of the most vulnerable when they are jailed because they don't have income for bail.
- Bail amounts of \$500 or more are common barriers for queer and trans people who face a myriad of others barriers to steady income and employment. According to a 2011 study, the average family income of same-sex couples raising children is \$15,500. 15% of transgender people report making less than \$10,000 a year, which is four times the national average.
- After paying bail (and often times they aren't offered bail because of Immigration Customs and Enforcement (ICE) holds), undocumented people are often funneled into the hands of ICE.

Model Legislation

- While not perfect, Washington, D.C. releases approximately 88 percent of defendants. There are several components – from statutes to police department and court practices – that make this possible:
 - A bail statute that emphasizes least restrictive release for eligible defendants, statutory-based detention for those who would pose an unacceptable risk to the community, and an absolute prohibition on money-based detention.
 - Progressive use of “cite-and-release” procedures by the Metropolitan Police Department for low-risk defendants charged with misdemeanors. Citation release has helped increase the proportion (about 20 percent of people securing release) of lower-risk defendants released on personal recognizance without supervision.
 - Quick assignment of defense counsel prior to initial appearance.
 - Prosecutorial charging decisions made within 24 hours of arrest. By statute, the U.S.attorney must decide whether to charge arrestees or dispose of the complaint. Quick charging decisions ensure that release or detention decisions are based on the most accurate charges, and that defendants are not detained on charges that eventually are dismissed days or sometimes weeks later.

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- A high-functioning pretrial services agency that helps courts make informed pretrial release and detention decisions and provides appropriate levels of support and treatment for released defendants. This has been a critical component of the court's ability to move away from the money-driven system that existed in the 1970s and the 1980s (in addition to the critical statutory language).

Resources:

- Arifuku, I. and Wallen, J. (2013). Racial Disparities at Pretrial and Sentencing and the Effects of Pretrial Services Programs, National Council on Crime & Delinquency
- Huffington Post: [Fourteen Examples of Racism in Criminal Justice System](#)
- Huffington Post: [Why Bail Reform Should Be an LGBT Movement Priority](#)
- [Prisons of Poverty: Uncovering the pre-incarceration incomes of the imprisoned](#)
- New York Times: [Too Many People in Jail? Abolish Bail](#)
- Christian Science Monitor: [Get out of jail free: US cities eye bail reform, other efforts to help poor](#)

Organizations Currently Working on this:

- Color of Change
- Bronx Freedom Fund
- Chicago Community Bond Fund
- Equal Justice Under Law

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