

CAMPAIGN TO

# REFORM MONEY BAIL

## REFORMING MONEY BAIL

A Tool to Reduce the Number  
of Incarcerated People with  
Mental Health Conditions

### MONEY BAIL

Money bail is the requirement for people in jail to pay money up front in order to secure release while waiting for trial. Lack of individual consideration often makes money bail unaffordable, leaving many to remain incarcerated for weeks, months, or even years while awaiting trial. Overreliance on money bail disproportionately and negatively impacts lower income and minority communities, but has similar impacts on people living with mental health conditions.

#### People with Mental Health Conditions are Grossly Overrepresented in the Criminal Justice System

- People with mental health conditions are more likely to be arrested and taken to jail.<sup>1</sup>
- 64% of people in jail have a mental health condition.<sup>2</sup>
- Every year, 2 million adults with serious mental illness are booked into jail (about 17% of all jail admissions).<sup>3</sup>

This is true despite the costs of incarcerating a person with a mental health condition vastly surpassing the costs of incarcerating a person without a mental health condition or providing adequate community-based treatment.<sup>4</sup>

#### Money Bail Disproportionately Impacts People with Mental Health Conditions

Compared to people who do not have a mental illness, those that do are less likely to make bail and stay in jail longer before making bail.

- In New York City, only 12 percent of people with mental health conditions made bail compared to 21 percent of people without, even though bail amounts were comparable.
- Furthermore, it took five times as long for people with mental illness to make bail as those without (48 days vs. 9 days).<sup>5</sup>

Reasons may include lack of community-based alternatives to detention, knowledge of behavioral health needs, financial resources, and family and friends willing to post bail.<sup>6</sup>

## Incarcerating People with Mental Health Conditions Harms Health

- Up to 89% of people with mental illness in jails do not receive care, and any care received is generally inadequate.<sup>7</sup>
- Incarceration can make mental health conditions worse, and some individuals may develop mental health problems while in custody.<sup>8</sup>
- People with mental health conditions are at greater risk of being the victim of physical and/or sexual abuse during custody.<sup>9</sup>
- Roughly 80% of all jail deaths in California occur among people in pretrial detention. Suicides account for a quarter of these deaths.<sup>10</sup>

## Pretrial Detention Increases Likelihood of Negative Criminal Justice and Public Safety Outcomes

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

- Be convicted;
- Receive a harsher sentence, including more time in jail or prison; and
- Return to the criminal justice system in the future.<sup>11</sup>

## Reforming Money Bail is a Front-End Solution to Reduce the Number of Incarcerated People with Mental Health Conditions

Determining who stays behind bars based on actual public safety or flight risk instead of the individual's financial resources would mean many individuals who currently stay in jail simply because they can't afford bail could be released while awaiting trial. This would also apply to incarcerated people with mental health conditions; having a mental health condition does not increase the risk of failure to appear or rearrest during pretrial release.<sup>12</sup> People with mental health conditions who end up in jail could be diverted to more appropriate community-based mental health treatment much sooner, resulting in better individual and public safety outcomes.

*Campaign to Reform Money Bail is a coalition to pass—and implement—legislation to end wealth-based and racially biased pretrial detention and to safely and significantly reduce the number of people held in jail after arrest, to secure funds for pretrial services, and to meaningfully include impacted people in the campaign.*

## MEMBERS OF CAMPAIGN TO REFORM MONEY BAIL



<sup>1</sup> The sentencing project, mentally ill offenders in the criminal justice system: an analysis and prescription 7 (2002).

<sup>2</sup> Doris j. James & lauren e. Glaze, u.S. Dep't of justice, bureau of justice statistics, special report: mental health problems of prison and jail inmates 1 (2006).

<sup>3</sup> Council of state governments justice center, improving responses to people with mental illnesses at the pretrial stage: essential elements 1 (2015);

<sup>4</sup> Sarah liebowitz, peter j. Eliasberg, ira a. Burnim, & emily b. Read, aclu of southern california & the bazelon center for mental health law, a way forward: diverting people with mental illness from inhumane and expensive jails into community-based treatment that works 8-9 (2014).

<sup>5</sup> Council of state governments justice center, improving outcomes for people with mental illnesses involved with new york city's criminal court and correction systems 1-2 (2013).

<sup>6</sup> Id. At 2.

<sup>7</sup> David cloud & chelsea davis, treatment alternatives to incarceration for people with mental health needs in the criminal justice system: the cost-savings implications 1 (2013).

<sup>8</sup> Tonia l. Nicholls, zina lee, raymond r. Corrado, and james r. P. Ogloff, women inmates' mental health needs: evidence of the validity of the jail screening assessment tool (jsat), 3 int'l j. Forensic mental health 167, 168 (2004).

<sup>9</sup> Id. At 168.

<sup>10</sup> Cal. Dep't. Of justice, openjustice: death in custody, side-by-side interactive charts <https://openjustice.Doj.Ca.Gov/death-in-custody/custody-stages> (last accessed oct. 26, 2016).

<sup>11</sup> 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).

<sup>12</sup> Kristin betchel, christopher lowenkamp, & alex holsinger, identifying the predictors of pretrial failure: a meta-analysis 13 (2011).