

CAMPAIGN TO

# REFORM MONEY BAIL

## REFORMING MONEY BAIL

People Jailed While Awaiting  
Trial Have Worse Criminal  
Justice Outcomes

### Money bail results in incarceration of low-income people who have not been convicted.

- Bail amounts in California for frequently charged felonies have increased by an inflation-adjusted 22% during 2002-2012.<sup>1</sup>
- In 2015, the median bail amount in California was \$50,000, five times higher than the national median of \$10,000.<sup>2</sup>
- In California, 59% of people awaiting trial remained incarcerated, while only 32% remained incarcerated nationwide.<sup>3</sup>
- The average income of people aged 23-39 who are unable to pay bail nationally for men is \$15,598 and for women is \$11,071 in 2015 dollars.<sup>4</sup>
- The average income of people aged 23-39 who are unable to pay bail nationally for Black men is \$11,275 and for Black women is \$9,083.<sup>5</sup>
- The yearly income for incarcerated people is nearly equal to the national median bail amount of \$10,000.<sup>6</sup> Yearly income is almost \$40,000 less than the median bail amount in California.<sup>7</sup>

### Detention while awaiting trial increases the likelihood of conviction.

- Empirical studies in Pennsylvania estimated that people jailed before trial are 12% to 13% more likely to be convicted than people released pretrial.<sup>8</sup>
- A similar study conducted on misdemeanor cases in Harris County, Texas, found that detained people were 25% more likely to be convicted.<sup>9</sup>
- Studies of criminal cases in New York City likewise found a 16.2 percentage point increase in the likelihood of being convicted among those detained.<sup>10</sup>

### Being held in jail before trial results in harsher sentences.

- People jailed while awaiting trial are more likely to be sentenced to incarceration.
- >> Studies in New York City and Leon County, Florida found that "pretrial detention significantly increased the likelihood of jail and prison sentences."<sup>11</sup>
- >> A study in Harris County, Texas found that people jailed before trial were 43% more likely to be sentenced to incarceration instead of probation.<sup>12</sup>
- If a person is jailed while awaiting trial, they are likely to receive a longer sentence.<sup>13</sup>
- >> A study conducted in 2016 of people charged with misdemeanors in Harris County, Texas found that the jail sentences received by people who had been jailed while awaiting trial were over two times longer than the sentences received by people who had been released.<sup>14</sup>
- >> Another study published in 2016 compared the maximum sentence lengths between people who had been detained and released, and found that the maximum sentence for people who had been detained was approximately 4.5 years longer than the maximum sentence for those released.<sup>15</sup>

- >> A study in Philadelphia found that people who had been jailed before trial were sentenced to terms of incarceration that were roughly five months longer.<sup>16</sup>
- People jailed pretrial are ordered to pay higher court fees.
- >> Detained people were ordered to pay approximately \$128 more in court fees than those released.<sup>17</sup>

### Being held in jail increases the likelihood that a person will plead guilty.

- The increased likelihood of plea deals is influenced by the social and economic costs of being jailed while awaiting trial, including negative impacts on employment, housing, and child custody, among others.<sup>18</sup>
- A study from 2016 in Harris County, Texas found that people held in jail while awaiting trial were 25 % more likely to plead guilty than people who had been released.<sup>19</sup>
- Brooklyn Defender Services estimated that in 2013 people who were detained were more than nine times as “likely to plead guilty to a misdemeanor” than those released.<sup>20</sup>
- Being jailed negatively impacts a person’s ability to negotiate plea bargains. Because incarcerated people need to be released as soon as possible, they are more likely to accept an unfavorable plea bargain.<sup>21</sup>

### Staying in jail while awaiting trial increases the likelihood of recidivism.

- An empirical study conducted in Harris County, Texas found that by 18 months after the bail hearing for a misdemeanor charge, “detention is associated with a 30% increase in felonies and a 20% increase in misdemeanors.”<sup>22</sup>
- A study of criminal cases in Philadelphia and Pittsburgh also found a 6% to 9% increase in recidivism.<sup>23</sup>

## MEMBERS OF CAMPAIGN TO REFORM MONEY BAIL



<sup>1</sup> SONYA M. TAFOYA, ASSESSING THE IMPACT OF BAIL ON CALIFORNIA'S JAIL POPULATION 9 (2013), [http://www.ppic.org/content/pubs/report/R\\_613STR.pdf](http://www.ppic.org/content/pubs/report/R_613STR.pdf).

<sup>2</sup> SONYA M. TAFOYA, PRETRIAL DETENTION AND JAIL CAPACITY IN CALIFORNIA 4 (2015), [http://www.ppic.org/content/pubs/report/R\\_715STR.pdf](http://www.ppic.org/content/pubs/report/R_715STR.pdf).

<sup>3</sup> Id.

<sup>4</sup> BERNADETTE RABUY & DANIEL KOPF, DETAINING THE POOR 2 (2016), <https://www.prisonpolicy.org/reports/incomejails.html>.

<sup>5</sup> Id.

<sup>6</sup> RABUY & KOPF, supra note 4; TAFOYA, supra note 2.

<sup>7</sup> RABUY & KOPF, supra note 4; TAFOYA, supra note 2.

<sup>8</sup> The study conducted by Gupta, Hansman, and Frenchman studied 260,333 criminal cases in Philadelphia and Pittsburgh between 2010 and 2015. Arpit Gupta et al., The Heavy Costs of High Bail: Evidence from Judge Randomization 22 (Columbia Law & Econ. Research Paper Series, Paper No. 531, 2016), [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2774453](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2774453). The study by Stevenson utilized 331,615 criminal cases in Philadelphia between September 2006 and February 2013. Megan Stevenson, Distortion of Justice: How the Inability to Pay Bail Affects Case Outcomes 1 (2016), [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2777615](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2777615).

<sup>9</sup> The paper completed by Heaton, Mayson, and Stevenson studied 380,689 misdemeanor cases in Harris County, Texas between 2008 and 2013. Paul S. Heaton et al., The Downstream Consequences of Misdemeanor Pretrial Detention 4 (Univ. of Pa. Inst. for Law & Econ., Paper No. 16-18, 2016), [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2809840#](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2809840#).

<sup>10</sup> Phillips studied 1,999 non-felony and felony cases between September 2002 and March 2003. MARY T. PHILLIPS, A DECADE OF BAIL RESEARCH IN NEW YORK City 56, 116 (2012), <https://nyulawcommentator.files.wordpress.com/2016/03/00c6b-cja-decadebailresearch12.pdf>. The study by Leslie and Pope analyzes 973,815 misdemeanor and felony cases from New York City between 2009 and 2013. Emily Leslie & Nolan G. Pope, The Unintended Impact of Pretrial Detention on Case Outcomes: Evidence from NYC Arraignments 13 (Univ. of Chi. Working Paper, 2016), [http://home.uchicago.edu/~npope/pretrial\\_paper.pdf](http://home.uchicago.edu/~npope/pretrial_paper.pdf).

<sup>11</sup> The study by Williams examined 412 cases from Leon County, Florida between January 1, 1994 and December 31, 1996. Marian R. Williams, The Effect of Pretrial Detention on Imprisonment Decisions, 28 CRIM. JUST. REV. 299, 313 (2003); Phillips, supra note 10, at 118.

<sup>12</sup> See Heaton et al., supra note 9, at 21.

<sup>13</sup> Sacks and Ackerman examined 634 felony cases from 21 counties in New Jersey. Meghan Sacks & Alissa R. Ackerman, Bail and Sentencing: Does Pretrial Detention Lead to Harsher Punishment?, 25 CRIM. JUST. POLY REV. 59, 64, 68, 71 (2012); Williams, supra note 9.

<sup>14</sup> Heaton et al., supra note 9.

<sup>15</sup> Leslie & Pope, supra note 10.

<sup>16</sup> Stevenson, supra note 8.

<sup>17</sup> Id.

<sup>18</sup> Gupta et al., supra note 8, at 19, 22.

<sup>19</sup> Heaton et al., supra note 9.

<sup>20</sup> Matt Sledge, Community Bail Fund for Poor Defendants to Launch in Brooklyn, HUFFINGTON POST (Mar. 17, 2015, 4:26 PM), [http://www.huffingtonpost.com/2015/03/17/brooklyn-community-bail-fund\\_n\\_6886836.html](http://www.huffingtonpost.com/2015/03/17/brooklyn-community-bail-fund_n_6886836.html).

<sup>21</sup> Will Dobbie et al., The Effect of Pre-Trial Detention on Conviction, Future Crime, and Employment: Evidence from Randomly Assigned Judges 25 (NBER Working Paper No. w22511, 2016), [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2823319](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2823319).

<sup>22</sup> Id. at 4.

<sup>23</sup> Gupta et al., supra note 8, at 19, 22.