

CAMPAIGN TO

REFORM MONEY BAIL

REFORMING MONEY BAIL

Money Bail Disproportionately Harms People of Color

Money bail is the requirement for people in jail to pay money up front in order to secure release while waiting for trial. Money bail is often unaffordable, leaving many people incarcerated for weeks, months, or even years—even though they have not been convicted of a crime.

People of color are more likely to have bail denied and bail set higher than white people.

- People of color are more likely to be denied bail. The likelihood of having bail denied is up to 25% higher for black and Latino people.¹
- Black people are assigned higher bail amounts than white people accused of similar offenses. Bail amounts for black men average 35% higher than those for white men, even when controlling for seriousness of the offense.²

Nationally, black and Latino people are less likely than white people to make bail and more likely to sit in jail while awaiting trial.

- Bail keeps people in pretrial detention. Nationally, 90% of individuals in jails who remain detained awaiting trial are unable to afford bail.³
- People of color are less likely to be able to afford bail. Black and Latino people are half as likely to be able to afford bail as white people.⁴
- After money bail is set, black and Latino people are more than twice as likely as white people to remain stuck in pretrial detention.⁵ These racial disparities are especially stark for low-level offenses. For example, the likelihoods of a black and Latino person being detained awaiting trial for a drug offense are 96% and 150% higher than a similarly situated white person, respectively.⁶
- California has the highest bail amounts in the country, contributing to these disproportionate impacts of cash bail on communities of color. The median bail amount in California is more than five times the national median.⁷ On average, county bail levels for the most frequently committed felony offenses increased by approximately 22% between 2002 and 2012 (accounting for inflation).⁸

The greater likelihood that people of color will be detained while waiting for trial leads to compounding disparities by significantly increasing the likelihood people of color will be convicted, receive a harsher sentence, and/or commit crimes after release.

- Pretrial detention pressures individuals to plead guilty (even when they are not) to obtain release, while diminishing their leverage to negotiate and undermining their right to a fair and speedy trial.⁹
- Pretrial detention increases the likelihood of harsher sentences. People detained awaiting trial are less likely to have their charges reduced, more likely to be sentenced to jail or prison, and more likely to receive longer sentences than similarly situated people who were released pretrial.¹⁰
- Pretrial detention harms public safety. People detained before trial are more likely to commit new crimes after their release, partially due to the stress incarceration places on a person's job, housing, and family connections.¹¹

MEMBERS OF CAMPAIGN TO REFORM MONEY BAIL



¹ Traci Schlesinger, Racial and Ethnic Disparity in Pretrial Criminal Processing, 11 (2005).

² Shawn D. Bushway and Jonah B. Gelbach, "Testing for Racial Discrimination in Bail Setting Using Nonparametric Estimation of a Parametric Model" (2011)

³ Brian A. Reaves, U.S. Dep't. of Justice, Bureau of Justice Statistics, Felony Defendants in Large Urban Counties, 2009 – Statistical Tables 15 (2013).

⁴ Steven Demuth, Racial and Ethnic Difference in Pretrial Release Decisions and Outcomes: A Comparison of Hispanic, Black, and White Felony Arrestees, 41 J. of Crim. 873, 897 (2003).

⁵ Steven Demuth, Racial and Ethnic Difference in Pretrial Release Decisions and Outcomes: A Comparison of Hispanic, Black, and White Felony Arrestees, 41 J. of Crim. 897.

⁶ Steven Demuth, Racial and Ethnic Difference in Pretrial Release Decisions and Outcomes: A Comparison of Hispanic, Black, and White Felony Arrestees, 41 J. of Crim. 873, 898 (2003).

⁷ Sonya Tafoya, Pub. Pol'y Inst. Cal., Pretrial Detention and Jail Capacity in California 4 (2015).

⁸ Public Policy Institute of California, Pretrial Detention and Jail Capacity in California at p. 9 <http://www.ppic.org/content/pubs/report/R_715STR.pdf>

⁹ Id.

¹⁰ New York City Criminal Justice Agency, Research Brief No. 18: Bail, Detention, & Felony Case Outcomes (2008) at p. 7 <<http://www.nycja.org/library.php>> (hereafter CJA Research Brief No. 18)

¹¹ Christopher T. Lowenkamp, Marie VanNostrand, and Alexander Holsinger, The Hidden Costs of Pretrial Detention <<http://www.pretrial.org/download/research/The%20Hidden%20Costs%20of%20Pretrial%20Detention%20-%20LJAF%202013.pdf>>.