

*hey there, let's talk about*

# OUR CRIMINAL JUSTICE SYSTEM

specifically cash bail

## **So how does one end up in a cash bail system?**

After you are arrested, a price will be set as collateral to ensure your court appearances. The money will be returned in full as long as you attend all court dates.

**Defendants are only free to go home unless they pay the full amount**

Typically, people will use a bail bond agent. This agent will pay the bail entirely for you at a 10% loss. The loss won't be returned, unlike when you pay the bail entirely upfront.

**If you are unable to pay cash bail, you will remain in jail awaiting trial.**

(In America, it is a crime to be poor – search 'The Cut: What Really Happened to Layleen Polanco?' for an example of the severity of being unable to afford bail)

AS STATED BY HARVARD LAW  
CRIMINAL JUSTICE POLICY PROGRAM

**"Wealth and race are  
correlated, money bail  
disproportionately harms  
black and latinx defendants."**

## What is the issue with having a system like this?

### *THIS SYSTEM CRIMINALIZES POVERTY*

A money based system is essentially defined as "wealth-based incarceration". Money is a poor tool for achieving justice and disproportionately harms communities of color.

### *THIS SYSTEM CAUSES WRONGFUL CONVICTIONS*

Half a million people sit in jail every day, whether they are innocent or not. Then 120,000 people on average are wrongfully convicted. It is not uncommon for innocent people to plead guilty in exchange to go home right away at a cost - a criminal record.

### *THIS SYSTEM DOES MORE HARM THAN GOOD*

Waiting for your trial while in jail can take months and even years. The system does not support loss of job, housing, or custody of children during this period. The detention of people solely because they cannot afford to pay bail also increases the risk of a person to commit a crime in the future.

## What are bail schedules?

This system determines the price of bail. Typically, the ruling judge will determine a price based on previous criminal history, whether you have a job, and whether or not you are community centered.

It does not take into account whether it is a reasonable price one can afford – especially when it comes to people of color from low income communities.

AS STATED BY THE SUPREME COURT

**"If a defendant is locked up, he is hindered in his ability to gather evidence, contact witnesses, or otherwise prepare for his defense."**

## What is pretrial reform?

- More citations less arrests to filter out non-violent crimes
- Conditional release with physical interaction to ensure court appearances
- Non-financial based conditions
- Positive interventions such as phone or text reminders of court dates
- Usage of risk assessment tools
- Affected communities must play a role in creating reform

IN WASHINGTON, D.C. CONDITIONAL RELEASE HAS BEEN IMPLEMENTED. 94% WHO WERE RELEASED PRETRIAL, 91% RETURNED FOR COURT APPEARANCE

# Why is ending cash bail so controversial?

1. Releasing potential dangerous people too soon could endanger the public

Pretrial reform is intended for non-violent crimes. The risk assessment should determine the risk level of people, rather than at the discretion of (majority) white judges.

2. The bail bond industry profits \$2.4 billion each year

Is it ethical to have industries profit off of our freedom?  
We need to eliminate pretrial profiting.

3. Policy makers need to form a new system that respects constitutional procedures

The current system is unconstitutional. Bail violates our 14th amendment which states "equal protection of the law". The lack of equality to prepare in defense of oneself because of disparity in wealth is wrong.

## Why should Americans demand change?

Residing in jail for as little as two days can increase a persons' risk for committing crime in the near future. Jail can turn innocent people into criminals through exposure.

American tax payers are the backbone of all jails and prison. We spend \$38 million a day - \$14 billion a year - on a broken system.

We need reform not more prisons.

*A friendly reminder: I've done the research, but you should, too! Check my sources against your own, and always exercise sound judgment.*

## SOURCES

Bishop, Hopkins, Obiofuma, and Felix Owusu. "Racial Disparities in the Massachusetts Criminal System." A Report by The Criminal Justice Policy Program: Harvard Law School, September 2020,  
<https://hls.harvard.edu/content/uploads/2020/11/Massachusetts-Racial-Disparity-Report-FINAL.pdf>

Hopkins, Bains, and Colin Doyle. "Principles of Pretrial Release: Reforming Bail Without Repeating its Harms." *Journal of Criminal Law and Criminology*, vol. 108, no. 4, Fall 2018,  
<https://scholarlycommons.law.northwestern.edu/cgi/viewcontent.cgi?article=7639&context=jclc>

## SOURCES CONTINUED

“Why Pretrial Matters.” Pretrial Justice Institute,  
<https://www.pretrial.org/why-pretrial-matters>

Raphling, John. “Plead Guilty, go home. Plead not guilty, stay in jail.” Human Rights Watch, 17 May 2017, <https://www.hrw.org/news/2017/05/17/plead-guilty-go-home-plead-not-guilty-stay-jail>

James, Kayla. “How the Bail Bond Industry Became a \$2 billion Business.” Global Citizen, 31 January 2019, <https://www.globalcitizen.org/en/content/bail-bond-industry-2-billion-poverty/>

Gold, Hannah. “What Really Happened to Layleen Polanco?” The Cut, 31 August 2020, <https://www.thecut.com/2020/08/what-really-happened-to-layleen-polanco.html>