

OUT OF POCKET:

The High Cost of Pretrial Incarceration

APRIL 2024

About The Bail Project

The Bail Project is a national nonprofit that provides free bail assistance and pretrial support to thousands of low-income people every year while advancing policy change at the local, state, and national levels. It is on a mission to combat mass incarceration by eliminating reliance on cash bail and demonstrating that a more humane, equitable, and effective pretrial system is possible. Through our Community Release with Support model, we provide our clients with return-to-court services including court notifications, free transportation assistance, and referrals to voluntary services. These interventions have helped nearly 30,000 people return to court 91% of the time with none of their own money on the line, preserving the presumption of innocence and demonstrating the efficacy of needs-based pretrial support. Learn more about The Bail Project at bailproject.org.

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Introduction

American taxpayers spend \$14 billion a year holding people in jail who have not been found guilty of a crime.¹ Pretrial incarceration costs individuals and their families almost \$30,000 in lost income,² causes a quarter of incarcerated people to lose their homes,³ increases adverse case outcomes,⁴ and deteriorates the physical⁵ and mental⁶ well-being of hundreds of thousands of Americans. Many are incarcerated simply because they cannot afford to pay the cash bail amounts set against them.

There is an alternative, however. Needs-based interventions, which refer to an umbrella set of court- and community-based services, can decrease the harms of pretrial incarceration vis-a-vis the cash bail system by providing social supports within the community that address unmet needs in an individual's life. Such interventions can take the form of counseling for mental health and addiction-related issues, employment coaching and job placement, educational opportunities, and supportive housing, to name a few. Because they address the unmet needs that lead to justice-system involvement in the first place, these needs-based interventions are safer, affordable, and more effective than jail.

Jailing thousands of innocent people each year because they cannot afford the price of freedom exacts extreme financial and social tolls on families, communities, governments, and our entire society. To illustrate both this heavy burden and its irrationality, this report explores the financial and social costs of cash bail and pretrial incarceration and introduces the idea of needs-based interventions as a viable alternative to pretrial incarceration.

The Social and Financial Costs of Pretrial Incarceration

Wasted Taxpayer Dollars

We spend billions in taxpayer dollars each year on incarceration. Meanwhile, millions of Americans are struggling to pay rent, buy groceries, and secure childcare. Every American is impacted by the financial and social costs of pretrial incarceration, regardless of whether they have ever been incarcerated themselves. Our tax dollars cover the operating costs of jails overcrowded with people being detained unnecessarily – people who are too poor to pay bail⁷ or who have mental illnesses⁸ that would be better addressed with in-community treatment and care.

On average, cities, counties, and states spend approximately \$8,000,000⁹ annually to operate a single jail, an amount that includes budgeting for correctional officers who fail to come to work¹⁰ and cannot prevent in-custody deaths,¹¹ and contracts with medical service providers who fail to provide adequate care,¹² sometimes resulting in the loss of life.¹³

The unnecessary incarceration of nearly half a million Americans before trial reduces individual earnings, diminishes workforces, and creates economic insecurity. Being jailed for just three days leads to an average lifetime financial loss of almost \$30,000¹⁴ – an amount nearly equal to one full year of income for half of American workers.¹⁵ Pretrial incarceration often forces families to take on debt, creates residential instability in the form of late or missed rent and utility payments, and impacts future wealth accumulation.¹⁶ For children, having an incarcerated parent increases their likelihood of dropping out of school, deteriorates their mental health,¹⁷ reduces their chances of upward economic mobility,¹⁸ and increases their likelihood of future justice-system involvement.¹⁹

States and localities spend nearly \$40 million in taxpayer dollars each day – that's \$14 billion each

year – jailing people pretrial²⁰ – an amount twice the size of the annual budget for New Hampshire.²¹ Taking into account the collateral costs of incarceration on individuals, families, and the justice system itself, the full price tag is actually 10 times greater.²²

To further contextualize the amount of money we spend on pretrial incarceration, with \$14 billion dollars we could provide childcare for 875,000 children²³ or pay the salaries of over 200,000 elementary school teachers.²⁴

Sick and Suffering in Jail

Jails are ineffective treatment centers for people with mental illness and addictions – they are neither therapeutic nor supportive, lack sufficient and adequately trained staff, and oftentimes substitute treatment with punishment.²⁵ While approximately 44%²⁶ of people in jail have a history of mental illness, less than half of them actually receive treatment while incarcerated.²⁷ Despite media reports suggesting otherwise, people with mental illness and addictions are not inherently dangerous – they are no more likely to cause harm than a person who is otherwise healthy.²⁸

For people with mental illness, the stress of incarceration can worsen symptoms associated with their illness, diminishing their chances for relief from troubling behaviors, thoughts or emotions, and adversely impacting their chances for long-term stability. Ultimately, jails are not hospitals and correctional officers are not nurses. Yet, in many jurisdictions nationally, we have forced jails and their staff to deliver health services that are more commonly and effectively provided in hospitals and community-based clinics.

Incarceration casts a long shadow in terms of the way it disadvantages people after release,²⁹ and reintegration and the social stigma of incarceration are challenges that extend beyond the period of confinement, jeopardizing long-term health. Instead of providing adequate behavioral healthcare services in-community, which has far less potential to worsen mental health symptoms, we are forcing vulnerable

people into traumatic custodial settings ill-equipped to treat their complex problems – at a cost that is double what it takes to incarcerate the general population.³⁰

Incarceration also worsens chronic health conditions³¹ for hundreds of thousands of Americans and reduces the life expectancies of incarcerated people³² and their families, pushing the limits of our already overlaid healthcare system.³³ People in jail are ten times more likely than non-incarcerated Americans to commit suicide.³⁴ Drug overdose is a leading cause of death for people in jail and people leaving jail.³⁵ Instead of risking the lives of thousands of their constituents for a false sense of safety and security, local governments should invest in community-based solutions that are proven to improve health and well-being.

Still Separate and Unequal

While pretrial incarceration costs us all, we do not all pay an equal price. The excessive costs of pretrial incarceration have always fallen overwhelmingly on people of color. The overpolicing of communities of color³⁶ – which includes higher levels of law

enforcement activity,³⁷ the utilization of controversial plain clothes police units,³⁸ and racial profiling³⁹ – has led to people of color being detained pretrial at twice the rate of white people. Even after controlling for criminal histories and charge severity, people of color are more likely to be held in pretrial incarceration than white people. They are also, on average, detained for longer periods of time⁴⁰ – a disparity which typically worsens income and employment loss and exacerbates the adverse health conditions associated with incarceration.

Procedurally Unjust

Pretrial incarceration places undue strain on our courts, which are overburdened because of the amount of people we put in jail.⁴¹ With only so many judges, prosecutors, and public defenders available, court dockets become overwhelmed and cases are delayed, sometimes for months or years.⁴² When people do make it before a judge, court appearances are often brief and confusing. Many times, poor defendants are forced to attend court appearances without defense counsel.



Jaylen, a young, Black man who has a schizophrenia diagnosis, was arrested in February 2021, after getting into a verbal altercation with another driver. He was incarcerated at St. Charles County Jail, with bail set at \$30,000. In jail, Jaylen struggled to acknowledge his mental illness, and stopped taking his medication. The Bail Project posted his bail, and he was able to reunite with his grandmother, Mrs. Elfreda. But he had a series of psychotic episodes after his release. Mrs. Elfreda worried about her grandson, and feared that his mental illness meant a life of incarceration – like it did for her son, Jaylen's father.

With no other options, many people with mental illness often end up cycling in and out of jail, where their condition risks deterioration. Fortunately, Mrs. Elfreda was Jaylen's biggest advocate. After The Bail Project paid Jaylen's bail and he was released from jail – a place he should have never been in the first place – Mrs. Elfreda secured a one-month stay at the hospital for him, where he was put on the correct medication and treatment plan.

"I'm proud of my grandson," Mrs. Elfreda said. "I'm not saying it was easy. But it was worth it in the end. We came out victorious."

Pretrial incarceration not only delays, but skews justice. Our overreliance on pretrial incarceration poses a major threat to a fundamental American right – the presumption of innocence. People who are detained pretrial are more likely to be convicted and sentenced to prison or jail time.⁴³ Analysis by The Bail Project illustrates they are also more likely to plead guilty to escape dangerous jail conditions.⁴⁴ These criminal convictions⁴⁵ can jeopardize immigration status, result in the loss of child custody, prevent people from obtaining licenses to do certain jobs,⁴⁶ and limit access to public housing or student loans.

A single missed court appearance can cost a jurisdiction over \$1,000.⁴⁷ These non-appearances are often the result of common challenges we all face: difficulty getting time off from work; challenges securing childcare; an unexpected illness or an emergency; and a lack of transportation. Simple interventions such as court transportation,⁴⁸ including free Lyft rides or public transportation vouchers, and court notifications⁴⁹ have been found to successfully increase court appearance rates, reduce bench warrants, and save taxpayer dollars.

Democracy for Sale

Pretrial incarceration leads to the disenfranchisement of tens of thousands of Americans, barring them from exercising one of our country's most fundamental rights: the right to vote. In the 2020 election, jail incarceration resulted in the loss of 35,000 votes nationally, with Black people being disproportionately impacted.⁵⁰ Considering the narrow wins in several key states during the last presidential election – 10,457 votes in Arizona and 12,670 in Georgia⁵¹ – the amount of votes lost to incarceration is staggering. We cannot lock people up and throw away the key – most people will return to society at some point and we must share responsibility for their stability and reintegration. For now, the decision by our elected officials to over-invest in pretrial incarceration is a cost we as a society are choosing to pay – and we all must foot the bill.

Christopher was struggling to regain his health. He was battling sarcoidosis, an autoimmune disorder that attacks the lungs and can lead to memory loss and blindness. His vision was declining, and he suffered unbearable headaches. But it then got worse.

He was arrested for an alleged altercation with another patient at the treatment center and incarcerated at Maricopa County Jail with bail set at \$350. Behind bars, he was deprived of his medication. He went over three months without receiving adequate treatment and medication, leaving him nearly unable to see after two weeks.

The Bail Project posted Christopher's bail, and he soon thereafter was admitted to the hospital, where his condition was stabilized. "If you guys didn't bail me out, I probably would've died in that place to be honest with you," Christopher said.

Unfortunately, many people face the same fate as Christopher in jail. People with medical conditions are often neglected in jail systems, and many are deprived of their medication.



Contextualizing the Cost of Pretrial Incarceration

The cost of pretrial incarceration can be difficult to grasp in its enormity. The statistics below contextualize the toll it takes through its financial costs and social and economic consequences.



\$14 BILLION a year in taxpayer dollars spent on incarceration amounts to:

Increased rates of poverty and unemployment⁵²

Individual lifetime financial losses of almost **\$30,000**

\$8,000,000 annually per facility to operate our nation's jails, including:

\$85 per person per day for food, medical care, and security⁵³

\$170 per person per day for people with mental health or substance abuse disorders⁵⁴



With **\$14 BILLION** we could:

Provide childcare for **875,000** children

Pay the salaries of **200,000** elementary school teachers

Provide years of free public transportation⁵⁵

Provide housing and services for **every Californian** experiencing homelessness for nearly two years⁵⁶

Mending Our Social Safety Nets: Needs-Based Interventions

Because we know that a person's likelihood of being arrested and incarcerated increases if their basic needs are not being met (i.e., economic stability, education, healthcare, access to transportation, and housing),⁵⁷ we must either intervene to provide people with the things they need to thrive, or continue to rely on the broken, costly system of pretrial incarceration. The incredible financial and social costs of pretrial incarceration are avoidable if and when we adequately invest in preventive services that target an individual's unmet needs and address the root causes of crime.

These preventive services are often referred to as

"needs-based interventions," which are an umbrella set of services that – when tailored to the unique needs of an individual – can decrease the harms of pretrial incarceration and reduce the probability that someone experiences additional involvement in the criminal justice system down the line. These services tend to take the form of evidence-based psychotherapy and clinical services; substance use treatment; affordable housing; and job placement, to name a few. They address the root causes of justice-system involvement by providing access to healthcare, housing, education, and employment, thereby improving public safety, health, and both individual and community well-being.

Not only are these services more affordable in the short term, they also have the potential to save taxpayers greatly by helping stabilize our fellow Americans – closing the revolving door of the

justice system once and for all. By investing in the assessment of needs and the connection to critical supportive services, system actors can create a more robust tapestry of care that will make communities safer in the long run.

It's important to note that the majority of people charged with a crime do not need a high degree of support as they navigate the pretrial system and wait for their cases to resolve; some do, however. Though most people need little more than court transportation and notifications about pending court dates, others will benefit from the ability to access more comprehensive support. In all circumstances, any behavioral health assessments should be conducted by a licensed medical or mental health professional to ensure the appropriate level of care.

The Bail Project's Community Release with Support model demonstrates the efficacy of a needs-based approach to pretrial justice.⁵⁸ Through court notifications, transportation assistance, and referrals to voluntary supportive services, we have assisted nearly 30,000 clients who have returned to 91% of their court dates.⁵⁹ This approach has saved taxpayers as much as \$20 million a year.⁶⁰

A switch to needs-based interventions will not only improve case outcomes for system-impacted

Releasing just 10 people pretrial gives states an extra **\$200,000** to reinvest into services for their communities.⁶¹ By investing this \$200,000 into addiction treatment programs, states can save around **\$2.4 million** in reduced drug-related crimes, criminal legal costs, theft, and healthcare expenses.⁶² Additionally, states will save as much as **\$123 million** a year by releasing people with mental illness and addiction into supportive programs.⁶³

people, but can also produce immense cost-savings for jurisdictions. Implementing needs-based interventions will not only promote healing and rehabilitation, but will also decrease future criminal justice system involvement. Mental health courts have been shown to reduce rates of rearrest by as much as 95% and mental health services provided in-community instead of in jail can be as much as 70% cheaper.⁶⁴

If we want a pretrial system that is truly just, we must end our reliance on cash bail and ensure that pretrial incarceration is the exception, not the rule. People need access to healthcare, housing, education, and employment; they should not be punished for the failure of government to meet those basic needs.

Defining Needs-Based Interventions

Needs-based interventions refer to an umbrella set of services that, when tailored to the unique needs of an individual, can decrease the harms of the cash bail system, as well as additional involvement in the criminal justice system further down the line.

Such interventions can take the form of:



Substance use treatment



Stable, supportive, and affordable housing



GED programs and educational opportunities



Court date reminders and notifications



Community-based pretrial services



Evidence-based psychotherapy and clinical services



Employment coaching and job placement services



Peer support/mentorship



Travel assistance



Court-based diversion for mental health and substance use issues

Key Messages

→ Every year, American taxpayers spend billions of dollars funding a pretrial system that undermines public safety, fuels jail overcrowding, and plunges individuals, families, and entire communities into financial hardship. When freedom has a price tag, we all pay the price.

→ The costs of cash bail and pretrial incarceration are not simply financial. Pretrial incarceration destabilizes individual and community health and perpetuates injustice in our justice system. Any amount of incarceration is a significant stressor, which can exacerbate mental and chronic health conditions and incentive people to accept unjust plea deals. These social and financial costs fall overwhelmingly on people of color, fueling racial disparities across the entire system.

→ Fortunately, an alternative system already exists that has demonstrated ample success in improving public health and safety: needs-based interventions not only save taxpayers money in reduced jail costs, but also address the health and social impacts of pretrial incarceration.

→ While cash bail was originally intended to ensure people released pretrial return to court, simple interventions such as court notifications, transportation assistance, and referrals to voluntary supportive services are actually more effective at meeting this goal. The proof is in our model: The Bail Project's clients return to court 91% of the time with none of their own money on the line.

→ In order to improve community safety, we have to stop investing in a system that exacerbates harm and fuels inequality. By investing in the health and well-being of our communities, and by implementing a needs-based approach to pretrial justice, we can reduce our reliance on incarceration and ensure that freedom is truly free.

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