

# THE BAIL PROJECT

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## The Bail Project Releases Framework to Guide Bail Reform Legislation

February 19, 2020 – The Bail Project on Wednesday released a [policy framework](#) consisting of five principles to guide bail reform legislation.

According to The Bail Project’s founder and CEO, **Robin Steinberg**, “this framework presents a roadmap for pretrial change beyond the elimination of cash bail. It is based on our experience working in diverse pretrial systems across the country and the collective expertise of our community-based teams. We know that cash bail is not only unjust—functioning as a driver of mass incarceration and racial disparities in the legal system—but it’s also unnecessary and ineffective as a mechanism for ensuring people come back to court. The question is what replaces cash bail. Here we offer an answer.”

The Bail Project launched in 2018 through TED’s Audacious Project and has provided free bail assistance to nearly 10,000 people across 20 cities to date. The organization’s policy framework comes as several states are set to consider bail reform during their upcoming legislative sessions.

A majority of Americans support expanded pretrial release and investment in alternatives to detention, according to a [national Pew poll](#). But while there is growing bipartisan consensus that eliminating cash bail is part of the solution, there is less agreement on what replaces it.

According to The Bail Project’s [policy framework](#), “overall success in this effort should be measured by the level of decarceration and reduction of disparities in how criminal justice is applied, not just the abolition of cash bail.”

To accomplish this, the organization offers five guiding principles, starting with the elimination of cash bail and the implementation of a model of community-based pretrial support. The Bail Project points to its track record of bailing out thousands of individuals at no cost to them, and supporting them in making their court appearances, as evidence that cash bail is not a necessary incentive to ensure return to court. Instead, The Bail Project argues, its model, which relies on community-based advocates, court reminder technology, transportation assistance,

and voluntary referrals to social services and community-based programs, is an effective way to support most people in returning to court without imposing cash bail.

“The fact is that the vast majority of people coming into the criminal legal system should not be there in the first place,” said **Vincent Southerland**, Executive Director of the Center on Race, Inequality, and the Law at NYU Law, and a member of The Bail Project’s board of directors. “Instead, we need interventions and investments that address issues of systemic racism in policing, homelessness, lack of access to mental health care and adequate drug treatment, and other factors.”

To the extent that pretrial detention is sought by the prosecution, The Bail Project argues, legislation must mandate an adversarial process to ensure the rights of the accused are protected. The process should include an open hearing, representation of the accused by competent counsel, the right to testify and cross-examine witnesses, and the submission on non-hearsay evidence adduced pursuant to the rules of evidence, among other safeguards. The organization is critical of “risk assessment algorithms” as a mechanism to inform these determinations. Adoption of these tools is a growing trend in jurisdictions seeking to move away from cash bail. The Bail Project argues that this technology codifies racial disparities and cites similar concerns from [civil rights organizations](#) and [experts](#) in the fields of statistics, data science, and law.

“I believe our nation has reached a moment of reckoning with the shameful legacy of mass incarceration and the racist policies that created the humanitarian crisis we see in our jails today,” said Steinberg. “Growing awareness about the need for bail reform presents an historic opportunity to begin undoing some of this harm and creating a more just system for future generations. But we need to get it right. Our hope is that this framework will offer guidance for policy makers grappling with these complex issues.”

The document is available for download at <http://bailproject.org/after-cash-bail>.