

The False Promise of Bail

Analysis of Pretrial Release Mechanisms and Court Appearance in
Tulsa County, Oklahoma

Introduction

For every person sent to prison over the course of a year, 19 people are booked into a local jail — the “front door” to mass incarceration in America. The cost to taxpayers in dollars alone: more than \$22 billion annually. When collateral costs such as lost wages, reduced economic mobility, health care costs, and impact to families and communities are accounted for, the price tag is roughly ten times higher.

Even more startling, more than 70% of people in jail have not been convicted of a crime, and nearly three out of four are accused of nonviolent traffic, property, drug, or public order offenses. They are unlikely to flee or be a danger to anyone, yet judges routinely set bail in amounts they cannot afford, which puts them at risk. Even a few days in jail can spark a life crisis that reaches beyond the person incarcerated to also harm those who depend on that individual for care and support. Every additional day in jail increases the pressure to plead guilty as the quickest way out, resulting in a criminal record with lasting repercussions.

Like many cities across the country, Tulsa, Oklahoma, has seen tremendous growth in its jail population, driven significantly by reliance on cash bail. Since establishing a presence in Tulsa in January 2018, The Bail Project has paid bail for more than 2,200 residents who could not afford it on their own. This assistance comes with no strings attached. No contract. No debt. No requirements at all. Nevertheless, the vast majority of Bail Project clients attend most or all of their required court hearings.

Research and Analysis

While The Bail Project has helped thousands of Tulsa residents in ways that facilitated the resolution of their court cases, it hasn't changed the pretrial landscape in Tulsa. Continued reliance on cash bail only benefits the commercial bail bond agencies that profit from — and sustain — the belief that money is a necessary incentive to ensure that people return to court. Nationwide, the commercial bail bond industry generated \$2.4 billion dollars in revenue in 2023.

Researchers at The Bail Project set out to challenge this belief by marshaling the kind of data the public rarely or never sees: court appearance rates corresponding to different pretrial release mechanisms. Drawing on court data, the researchers retrospectively studied more than 3,000 people arrested and booked into jail in Tulsa over the period of a year. Roughly half bought their way out of jail by paying a premium to a commercial bail bond agent — no other avenue for release pretrial was nearly as common. A mere 4% of people were able to pay bail in full; another 3.5% were bailed out by The Bail Project. Nonmonetary avenues for release were also rare: just 16% of people were released on their own recognizance or under the supervision of Tulsa County Court Services, and only after spending several days, or in some cases several weeks, in jail.

Key Findings

- **Money Bail is Not Associated with Better Court Appearance Rates** - By far, the most important finding to emerge from the study is that money bail is not associated with better court appearance rates. Indeed, most people in the study returned to court regardless of their release mechanism. In other words, money — in the form of cash bail paid upfront or the purchase of a bail bond — is neither necessary nor an effective way to incentivize people to participate in the resolution of their court cases.

This should come as no surprise. Research and experience consistently show that minimal support and encouragement are more effective than money in getting people back to court. Advance reminders about upcoming hearings and transportation assistance when needed — both of which The Bail Project provides — are particularly useful and

relatively inexpensive ways to help people meet their court obligations.

- **Judges Are More Punitive when Someone Released Without Money Misses a Court Date** - The study did reveal one notable difference: Judges are more punitive (i.e. more likely to issue a failure-to-appear bench warrant) when someone released without an upfront payment misses a court date. This disparate treatment without clear rationale has its own potential consequences, including reincarceration, new charges, and court costs and fees.
- **Release by Any Means is Associated with Fewer Guilty Pleas** - Finally, this study echoes prior research demonstrating that release by any means is associated with fewer guilty pleas and more favorable case outcomes.

Conclusion

The results make a compelling case for relying on nonmonetary, supportive pretrial release mechanisms in lieu of cash bail in most or all cases. Even so, well-meaning people will occasionally miss court dates. Reasonable grace periods and leniency are not only the humane response — they save the legal system and people involved from the costly repercussions of unnecessarily punitive responses.

While these findings emanate from a single American city, their implications are far broader given the growth in the pretrial jail population nationwide and the reactionary backlash that results when bail reform is erroneously positioned in opposition to public safety. Evidence, not fear-mongering, should inform public opinion, building on the belief common among Americans that people should not be jailed just because they cannot afford bail. By debunking the myth that cash bail and bail bonds lead to better court appearance rates, this report makes an important contribution to a growing base of evidence in support of nonmonetary alternatives.

The Bail Project is a national nonprofit that provides free bail assistance and pretrial support to thousands of low-income people every year while also advancing policy change at the local, state, and national levels. Our 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. To date, these interventions have helped nearly 30,000 people across 30 jurisdictions 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.