



Financial Case for Ending Money Bail

Avoided Costs of Pretrial Detention

- Over the last two decades, pretrial detention has driven 95 percent of the United States jail population growth.¹ As a result, 17 percent of corrections spending is now wasted incarcerating pretrial defendants.² Every year, we spend approximately \$14 billion to imprison nearly half a million people who have not been convicted of anything – \$38 million each day.³
- The highest *direct* cost associated with pretrial detention is imprisonment, which includes maintaining facilities, hiring prison staff and administrative officials and providing meals, rehabilitation, education, and other corrections.⁴ According to one study, the annual cost to detain one inmate is \$22,650.⁵ Some states, such as California, spend more than twice that amount.⁶
- Incarcerating individuals for short stays, typical of pretrial detainees, is particularly expensive for local jails. Intake costs – i.e. booking, creating records, medical screenings, and uniforms – may exceed \$800 and are incurred even if the person is released within the hour.⁷ The small percentage of individuals who cycle through jails may cost three times as much as typical inmates.⁸
- By reducing pretrial detention, local jurisdictions are poised to save significant money. In one year, increasing the pretrial release rate by 5 percent – an extra 11,000 individuals released pretrial – saved Kentucky counties approximately \$25 million in jail costs.⁹ According to one study, pretrial detention costs 15 times the cost of day reporting and almost 75 times the cost of pretrial supervision.¹⁰

Reduced Spending on Re-Incarceration & Future Crime

- Pretrial detention increases the likelihood of conviction, meaning that pretrial detention causes added spending on incarceration. A study on Philadelphia found that initial pretrial release makes people 24.2% *less likely* to be found guilty.¹¹ A different paper, looking at New York City, found that pretrial detention increases conviction likelihood by 13 percentage points.¹² Another study showed that assigning money bail causes a 12 percent rise in conviction likelihood, as well as a 6-9 percent rise in recidivism.¹³
 - The increase in conviction stems largely, though not entirely, from the fact that pretrial detainees plead guilty more often – approximately 25 percent more often, according to one study.¹⁴ A study of Harris County, Texas, showed that releasing all misdemeanor defendants between 2008 and 2013 would have avoided 5,900 criminal convictions, primarily owing to fewer wrongful guilty pleas.¹⁵
 - Another benefit of pretrial reform is reduced recidivism. This creates financial benefits in two ways – reduced *future* spending on corrections, assuming that inmates are re-incarcerated locally, and reduced spending on future crime. The same study of Harris County, Texas, quoted above, indicated that releasing all misdemeanor defendants between 2008 and 2013 would have caused 1,600 fewer felonies and 2,400 fewer misdemeanors by individuals within 18 months of their release.¹⁶ Estimates vary on
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the financial savings accompanying reduced crime, but the monetary and human benefits are likely substantial.

- Besides the impacts of future crime and increased incarceration, pretrial detention places significant burdens on families. One study showed that children of detained individuals are significantly more likely to become dropouts, which creates a long-term cost of roughly \$260,000 per child.¹⁷

Increased Employment & Tax Revenue

- Pretrial detention decreases tax revenue and depresses future earnings. A recent paper found that three to four years post-bail hearing, individuals initially released pretrial are 9.4 percent more likely to be formally employed, with these earnings \$948 higher on average.¹⁸
- The probability of having *any* formal sector income over this time period increases 10.2 percent for individuals initially released pretrial, while the probability of filing a tax return (two years post-bail hearing) increases 10.2 percent.¹⁹ These effects not only affect individuals, but also have ripple effects through local economies.
- Another study found that if a pretrial detainee loses employment, he or she is often encounters reduced wages upon securing new employment. For men, serving time pretrial reduces hourly wages by approximately 11 percent, annual employment by nine weeks and annual earnings by 40 percent.²⁰
- Evaluating total costs and benefits, a team of researchers found that pretrial release creates a \$55,143-\$99,124 net benefit per defendant.²¹ This figure includes economic impacts on defendants, jail costs, apprehension costs and the additional costs of future crime.

Availability of Low-Cost Alternatives

- **Release on Recognizance.** Low-risk defendants, released on recognizance or when absolutely necessary on an unsecured bond, may require little to no additional spending. For example, a study of unsecured bonds – no money upfront, but monetary liability for nonappearance – showed that unsecured bonds were equally effective at assuring appearance, maintaining public safety, and encouraging court reappearances after an initial missed appointment, while being more effective at reducing jail bed use.²²
 - **Live Telephone Calls.** In Coconino County, Arizona, a system of live calling reduced the FTA rate significantly, dropping a 25.4 percent failure to appear (FTA) rate to 5.9 percent when there was direct contact, 15 percent when the caller left a message with a third party, and 21 percent when the caller left a voicemail message.²³ Coconino County estimated that this program, by reducing FTAs by 127 per year, would save approximately \$150,000.²⁴ In Jefferson County, Colorado, a pilot program was so successful – for example, achieving a 92 percent appearance rate when the caller made direct contact – that it spun the program into a permanent Court Notification Program.²⁵
 - **Form Redesign.** Ideas42 and the University of Chicago Crime Lab collaborated on a project that redesigned the summons form for New York City. The redesigned form targeted the behavioral barriers causing many people to miss their court dates, such as forgetfulness and ignoring the downstream consequences of missed appearances. The behavioral redesign reduced the FTA rate by 13 percent, translating to roughly 17,000 arrest warrants per year.²⁶
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- **Text Message.** Text messages represent another cheap and effective way to reduce FTA rates. In New York City, Ideas42 and the University of Chicago Crime Lab additionally tested various systems of text messaging. The most effective texts reduced FTA rates by 26 percent.²⁷ Thirty days after the court date, the most effective messaging reduced open warrants by 32 percent, as compared to receiving no messages.²⁸ Uprust, a company providing two-way text reminders, has reduced the FTA rate by 75 percent in some jurisdictions, while costing just \$2 per person per year.²⁹
- **Pretrial Diversion.** While exact models differ across jurisdictions, the results of pretrial diversion can be striking. In San Francisco, a cost-benefit analysis projected that expanded pretrial diversion would produce jail savings of approximately \$3 million per year.³⁰ A study of Broward County, Florida showed that a 30 percent increase in diversion could save \$125 million annually.³¹
- **Community Supervision.** In the federal system, pretrial release programs cost \$3,100 to \$4,600 per defendant.³² This figure includes the costs of supervising defendants, providing alternative residential arrangements or treatment programs, and recovering defendants who have fled the jurisdiction.³³ A recent study showed net benefits for 3 of the 4 strategies tested, with these models producing benefits totaling more than \$8,000 each – \$10,526 for one, \$7,004 for another and \$8,952 for the third.³⁴ These interventions showed a 97 percent, 96 percent and 98 percent chance, respectively, of producing cost savings.³⁵ Meanwhile, the District of Columbia supervises 70 percent of the 88 percent of arrested individuals who are released, with each supervisee costing \$18 per day.³⁶

Note: Due to the many issues that are associated with community supervision, we recommend strong caution when considering such programs. Also, all programs must be: free to the individuals supervised; an option of *last resort* when *no less intrusive intervention* will adequately serve the state’s compelling interest in ensuring reappearances and reasonably protecting community safety; and have adequate privacy, due process and other safeguards to protect the supervised individual’s rights and dignity.

¹ Todd D. Minton & Zhen Zeng, *Jail Inmates at Midyear 2014*, Bureau of Justice Statistics, 1 (2015).

² Megan Stevenson and Sandra G. Mayson, *Bail Reform: New Directions for Pretrial Detention and Release*, Public Law and Legal Theory Research Paper Series Research Paper No. 17-18 (2017), 1.

³ Pretrial Justice Institute, *Pretrial Justice: How Much Does It Cost?* (2017), 2.

⁴ Shima Baradaran Baughman, *Costs of Pretrial Detention*, BOSTON UNIVERSITY LAW REVIEW, VOL. 97:1 (2017), 6.

⁵ See *id.*

⁶ See *id.*

⁷ Gerald Wheeler and Gerald Fry, *Project ORANGE JUMPSUIT: Effects of Pretrial Status and Days Detained on Case Outcome of Harris County Felony & Misdemeanor A/B Defendants*, September 2014, 6.

⁸ Cindy Rodriguez, *The Frequent Flyers of Rikers Island*, WNYC (November 16, 2015).

⁹ Nancy LaVigne et al., *Justice Reinvestment Initiative State Assessment Report*, Urban Institute, January 2014.

¹⁰ See *id.* Also see Alex Piquero, *COST-BENEFIT ANALYSIS FOR JAIL ALTERNATIVES AND JAIL: Prepared for the Broward Sheriff’s Office Department of Community Control*, October 2010.

¹¹ Will Dobbie, Crystal Yang and Jacob Goldin, *The Effects of Pre-Trial Detention on Conviction, Future Crime, and Employment: Evidence from Randomly Assigned Judges*, AMERICAN ECONOMIC REVIEW, 108 (2018).

¹² Emily Leslie & Nolan G. Pope, *The Unintended Impact of Pretrial Detention on Case Outcomes: Evidence from NYC Arraignments*, Journal of Law and Economics, Vol. 60, 543 (2017).

¹³ Arpit Gupta, Christopher Hansman and Ethan Frenchman, *The Heavy Costs of High Bail: Evidence from Judge Randomization*, Unpublished Working Paper, 3 (2016).

¹⁴ Paul Heaton et al., *The Downstream Consequences of Misdemeanor Pretrial Detention*, 69 STAN. L. REV. 711, 711 (2017). See also Criminal Justice Policy Program, *Moving Beyond Money: A Primer on Bail Reform*, Criminal Justice Policy Program at Harvard Law School, 7 (October 2016).

¹⁵ Pretrial Justice Institute, *supra* note 3, at 6.

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- ¹⁶ See *id.* at 6.
- ¹⁷ Baughman, *supra* note 4, at 7.
- ¹⁸ Dobbie, *supra* note 11, at 23.
- ¹⁹ See *id.*
- ²⁰ Baughman, *supra* note 4, at 5.
- ²¹ Dobbie, *supra* note 11, at 3.
- ²² Jones, Michael R., *Unsecured Bonds: The As Effective and Most Efficient Pretrial Release System*, Pretrial Justice Institute (October 2013).
- ²³ Pretrial Justice Center for Courts, *Use of Court Date Reminder Notices to Improve Court Appearance Rates*, Pretrial Justice Brief 10, 2010, 3.
- ²⁴ See *id.*
- ²⁵ See *id.*
- ²⁶ Brice Cooke et al., *Using Behavioral Science to Improve Criminal Justice Outcomes Preventing Failures to Appear in Court*, Ideas41 and The University of Chicago Crime Lab, 4 (January 2018).
- ²⁷ See *id.* at 4.
- ²⁸ See *id.* at 4.
- ²⁹ <http://www.uptrust.co/what-we-do#our-results-section>
- ³⁰ Pretrial Justice Institute, *supra* note 3, at 5.
- ³¹ See *id.* at 5. See also Piquero, *supra* note 10, at 5.
- ³² Marie VanNostrand & Gena Keebler, *Pretrial Risk Assessment in the Federal Court*, 73 FED. PROB. 3, 6 (2009) in Baughman, *supra* note 4, at 8.
- ³³ See *id.*
- ³⁴ Elizabeth K. Drake, *The Monetary Benefits and Costs of Community Supervision*, JOURNAL OF CONTEMPORARY JUSTICE, VOL. 34(1), 55 (2018).
- ³⁵ See *id.*
- ³⁶ Pretrial Justice Institute, *supra* note 3, at 6. See also Clifford Keenan, *It's about Results, Not Money*, Pretrial Services Agency for the District of Columbia, September 4, 2014.
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