

## RESOURCE GUIDE

# When "Bail Reform" Isn't



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70 Million is made possible by a grant from the Safety and Justice Challenge at the John D. and Catherine T. MacArthur Foundation.



# million

ONE JAIL AT A TIME.

*story*



# Pretrial Detention And Bail

Contrary to the ideal of *innocent until proven guilty*, over half a million people are being held pretrial without ever being convicted or sentenced. This is because they cannot afford bail—a monetary amount set by the state that must be paid in order to release from jail somebody who is charged with a crime and is awaiting trial. According to Prison Policy, “The median bail amount for felonies is \$10,000, which represents 8 months’ income for a typical person detained because they can’t pay bail.”

Meanwhile, the Bail Project explains, “People who are jailed pretrial often wait months, and sometimes years, for their cases to resolve. In the meantime, they can lose their jobs, homes, children, and critical community ties. Inside jail, people risk sexual violence, the deterioration of their mental and physical health, and the infliction of lasting trauma. They feel enormous pressure to accept an unjust or wrongful conviction just to go home. And, as with all other areas of the criminal legal system, people of color bear a far heavier burden due to an enduring legacy of racism and economic disenfranchisement.”

Thus, pretrial detention and cash bail are a means of profit for the Prison Industrial Complex—at an estimated \$2 billion a year—especially at the expense of poor people and people of color. And if a defendant is unable to pay bail it’s more likely that they’ll be convicted. That’s why people are organizing to end cash bail and push bills and legislation that shrink the scope and size of the Prison Industrial Complex’s power to jail, surveil, monitor, and control people. Critical Resistance encourages us to think of liberating pretrial and bail reforms going forward as those which craft protections and paths to freedom for all people pretrial—“without the threat of incarceration, supervision, or surveillance.”

**REFLECTION QUESTION:** How does the bail system where you live square with the constitutional right to a fair and speedy trial?



THE HARRIS COUNTY JAIL, LOCATED IN DOWNTOWN HOUSTON.  
PHOTO BY BRANDON ALLEN.

**"Every time we have done bail reform, we've reduced the number of people behind bars. We have stopped relying on money as much. We have addressed racial disparities, at least to some degree. We have upheld public safety. [...] Because we are a country that has had a money bail system for centuries at this point and undoing a series of decisions and choices we have made to prioritize profit over people [...] that's a lot of work to do to undo the problems with our pretrial system. I think it's wholly possible. It's just going to take a lot of work and a lot of education and a lot of trying different things that we've never done before to get there."**

— **INSHA RAHMAN**, attorney, bail expert, and vice president of advocacy and partnerships at the Vera Institute of Justice



# PEOPLE DOING THE WORK

## **National Bail Fund Network**

"The National Bail Fund Network is made up of over ninety community bail and bond funds across the country. We regularly update this listing of community bail funds that are freeing people by paying bail/bond and are also fighting to abolish the money bail system and pretrial detention."

## **National Bail Out / Black Mama's Bail Out**

"In the tradition of our enslaved ancestors—who bought one another's freedom in many forms and fashions—and centering the present-day traditions of Black queer feminism, we began what would become the National Bail Out (NBO) collective. We launched Black Mama's Bail Out, a campaign to bail out Black Mamas and caregivers from jails and migrant detention centers across the country every year before Mother's Day, marking the first mass bail out action in contemporary times."

## **Restoring Justice**

"Restoring Justice assists marginalized communities with holistic legal support, bail bonds, social services and trauma care. We believe holistic, loving, and client-centered representation by the local community is the only solution to mass incarceration."

## **Texas Jail Project**

"The mission of Texas Jail Project is to empower incarcerated people in county jails by lifting their voices through stories, testimonies, and community building. We hold jails as well as the entire criminal punishment system accountable—informing the public and lawmakers about civil rights violations, structural racism, and the punitive attitudes underlying the mistreatment and medical neglect inside Texas county jails."

## **ACLU Campaign for Smart Justice**

"The ACLU Campaign for Smart Justice is an unprecedented, multiyear effort to reduce the U.S. jail and prison population by 50% and to combat racial disparities in the criminal justice system."



MONIQUE JOSEPH STANDS IN FRONT OF THE A.M. 'MAC' STRINGFELLOW UNIT IN THE MEDIUM-SECURITY PRISON IN ROSHARON, TEXAS. HER HUSBAND HAS BEEN LOCKED AWAY IN THE STRINGFELLOW UNIT FOR THE PAST SIX YEARS. PHOTO BY BRANDON ALLEN.

**"Statistics do show that, you know, Black and brown people do get those higher bail amounts and aren't able to reach them and then subsequently found guilty and sentenced way longer. [...] There is no excuse for [the] lack of acknowledgement of simple data and reports that actually show that bail reform in the way it's been enacted in misdemeanors has actually produced a safer society. It's actually produced people who commit less crimes because we diverted and provide support for those folks."**

- MONIQUE JOSEPH, client advocate at Restoring Justice



# Keep learning...

## Reading



[How Cash Bail Works](#) by Adureh Onyekwere

[Cash bail and its effect on criminal justice in the United States](#) by Chris Farrell, Lindsay Guentzel, and Ariana Rosas

[For Better or for Profit: How the Bail Bonding Industry Stands in the Way of Fair and Effective Pretrial Justice](#) from Justice Policy Institute

[See Us Free: Coloring Our Way Out of Cash Bail: A political education coloring book on ending pretrial detention in Virginia and the South](#) from Southerners on New Ground

[Inside the Wild, Shadowy, and Highly Lucrative Bail Industry](#) by Shane Bauer

[After Cash Bail: A Framework for Reimagining Pretrial Justice](#) from the Bail Project

[The Path to Liberation Does Not Go Through Pretrial Punishment](#) from The Appeal

[End to Pretrial Detention and Money Bail](#) from The Movement for Black Lives

[On the Road to Freedom: An Abolitionist Assessment of Pretrial & Bail Reforms](#) from Critical Resistance

[Releasing people pretrial doesn't harm public safety](#) from Prison Policy

[How race impacts who is detained pretrial](#) from Prison Policy

[Feb. 6, 1961: "Jail, No Bail" in Rock Hill, South Carolina Sit-Ins](#) from Zinn Education Project

[Unable to Post Bail? You Will Pay for That for Many Years](#) from the New York Times

**"If I could just get out there, I could make enough money to pay my lawyer, [...] pay everything. [...] I've always made good money. But in here I can't make nothing."**

- GERONIMO GONZALEZ,  
detained pretrial and unable to pay bail

## Audio



[Where the COVID-19 Pandemic Might Finally Ignite Change in the Bail Bonds System](#) Season 3 Episode 10 and [associated toolkit](#) from 70 Million

[How Bail Shackles Women of Color](#) Season 2 Episode 3 and [associated toolkit](#) from 70 Million

## Video



[Trapped: Cash Bail In America](#) from Real Stories

REFORMING THE BAIL BOND SYSTEM IN TEXAS IS A RUNNING CONVERSATION FOR MANY CONSERVATIVE TEXAS LAWMAKERS, BUT THE NEW BAIL REFORM LAW THAT IS NOW IN PLACE HAS SOME CRIMINAL JUSTICE ACTIVISTS QUESTIONING THE MOTIVES OF THOSE LAWMAKERS. PHOTO BY BRANDON ALLEN.

# 70 Million Team

**Episode Reporter:** Andrea Henderson

**Executive Editor:** Jen Chien

**Host:** Mitzi Miller

**Sound Designer:** Elizabeth Nakano

**Photo Editor:** Michelle Baker

**Staff Writer and Designer:** Emma Forbes

**Lead Fact Checker:** Mark Betancourt

**Lead Producer:** Cedric Wilson

**Episode Photographer:** Brandon Allen

**Creator/Executive Producer:** Juleyka Lantigua



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