

RACIAL JUSTICE

As a multiracial community, the RAC has the ability to dismantle racism starting within the Movement and extending to the criminal justice system.

ENDING DISCRIMINATORY MONEY BAIL IN THE US: HOW YOUR CONGREGATION CAN HELP

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Jewish Text and Values

Jewish Text

Rooted in our Jewish faith and teachings, we are commanded to create a fair and unbiased legal system that upholds human dignity while meting out justice. In Leviticus' Holiness Code, we are taught, "You shall commit no injustice in judgement. Do not favor the poor nor show deference to the rich. You shall judge your fellow with righteousness" (19:15). Moreover, the Jewish people's history of suffering and discrimination at the hands of biased criminal justice systems demands that we open our eyes to modern-day legalized injustices.

Reform Movement Values

The following principles guide our approach when working on bail reform at the local, state, and federal level:

- **Racial equity:** This is the condition that would be achieved if an individual's racial identity no longer predicted how they fared in the system. [Racial equity](#) is one part of racial justice. As such, the work of racial equity addresses the root causes of inequities, not just their manifestation. This includes the elimination of policies, practices, attitudes and cultural messages that reinforce differential outcomes by race or fail to eliminate them.
- **Decreasing pre-trial detention:** Everyday, there are 465,000 people languishing in jail for crimes that they have not been convicted of. Individuals who do not pose a violent threat to society should be released pre-trial to their homes, jobs, and families to await their constitutionally mandated court dates.
- **Economic fairness:** Wealth should not be a determining factor in pretrial detention. Our system is broken when low-income people are imprisoned awaiting trial while people with financial means accused of the same crime can buy their freedom and immediately return home. That is wealth-based incarceration.
- **Due process:** The judicial requirement that laws and policies may not contain provisions that result in the unfair, arbitrary, or unreasonable treatment of an individual.
- **Avoiding false plea bargains:** Many innocent individuals who do not have the resources to pay bail know that they can expedite the process of release if they falsely plead guilty.
- **Data collection:** Any legislative solution should be accompanied by provisions that mandate the collection of demographic data on who remains to be held in pretrial

detention.

- **Involve impacted persons at every level of reform:** Meaningful solutions cannot be developed without the input of individuals who have experienced the injustices of the system firsthand. We must center their voices if we aim to develop sound policy.

Defining the Issue

What is money bail?

In the United States, after an arrest and before trial, a person stays in jail unless they have the ability to pay a sum of money. This is due to the common practice of money bail, or an amount charged by the state to release a person from custody while their case proceeds. While bail was originally intended as collateral to ensure defendants would return to court to face charges brought against them, the money bail system has instead become a means of widespread wealth-based incarceration in America.

Why is this a problem?

1. Money bail reinforces the racial disparities in the U.S. criminal justice system. While African Americans and Latinos together represent [30 percent](#) of the U.S. population, they comprise [50 percent](#) of those in pretrial detention. African American and Hispanic people are [more likely to be arrested](#), [more likely to be issued bail](#), and [less likely to be able to afford it](#).
2. Nearly [465,000 people](#) are being held in local jails every day even though they are legally presumed to be innocent. The up-front costs in our current system have made it so that people who are likely to return to court without further offending are instead kept behind bars. These are oftentimes people who have already been determined by a judge not to be a risk of flight or danger. This is simply detention due to a lack of money.
3. Money bail systems drive people to [plead guilty](#) — even if they're not. Pleading guilty allows people to go home, while maintaining their innocence would require staying in jail for months or possibly years awaiting trial. People with jobs or families that require their immediate return will oftentimes falsely admit to crimes in order to expedite their release.
4. America is one of only [two countries](#) that still legally allows for commercial bail bonds (the other country being the Philippines). When people cannot afford bail, they often turn to bond agencies to pay their bail by putting a small percentage of the amount of bail (usually 10 percent) down and paying the rest back when the money can be

amassed. Even 10 percent of bail can be more money than low-income defendants can raise to release themselves from jail. This provides the bail bond industry with a vulnerable clientele that are easy to exploit. They can charge high interest rates on their loans, go after a customer's loved ones for payments, and attach any requirements they want (such as taking a house as collateral) to guarantee their investment is reclaimed.

5. It is unconscionable that the United States criminal justice system relies on pre-trial detention in a way that leaves low-income people trapped in jail awaiting trial while people with financial means accused of the same crime can buy their freedom and immediately return home.

Alternatives to Money Bail

Several alternatives to bail have been developed in order to reduce pretrial detention and racial bias in our pretrial criminal justice system. Consider some of the following measures:

Release on recognizance

- In this case, the defendant is trusted to continue to appear in court on scheduled dates without paying bail or being detained. Usually those released on recognizance have been charged with a nonviolent or less-serious misdemeanor like as shoplifting, traffic violations, technical crimes and first offenses.

Text messages

- Court date reminders sent to defendants via [text message](#) are an inexpensive, simple intervention being tested across the country. Most criminal defendants are not flight risks, but rather they are attendance risks. By implementing technologies currently operating in some counties and cities around the country, defendants can receive notifications to remind them of their court hearings.

Drug treatment programs

- Sending defendants with a history of drug and alcohol abuse to addiction treatment programs rather than institutionalizing them is a [proven means](#) of circumventing a likely path to recidivism.

Other Support services for people on trial

- The court system provides services beyond drug treatment programs and reminders, including counseling, regular check-ins during the pre-trial period, and other targeted interventions.

Electronic monitoring

- Electronic monitoring involves the use of an ankle bracelet to track a person's location pretrial. Some argue that electronic monitoring will improve public safety and return rate for court appearances while being far less punitive and

costly than holding someone in jail, but others contend that not enough research has been conducted on their effectiveness, and that the use of ankle bracelets in vulnerable communities is a surveillance overstep.

Risk assessment tools

- [Predictive technology](#) that uses statistical factors to help a judge determine an individual's risk of flight. While statistical evidence shows these algorithms reduce the number of pretrial defendants left to languish in jail and have shortened their incarceration, there is substantial criticism that the algorithms have replaced a judge's potential implicit biases with further systemic biases built directly into their designs. When not carefully constructed, risk assessment algorithms can lead to increased pre-trial detention and racial bias.

"Unsecured" bonds

- "Unsecured" bonds hold a defendant liable for a breach of the bond's conditions. In this case, the defendant signs a contract and agrees to appear before the court. If they fail to do so, they promise to pay later the agreed bail bond amount before the court. An unsecured bail does not require that the money be offered up front and is not secured by a deposit of or lien on property.

Case studies

Across the U.S., bail reform is being debated, litigated, and implemented. Contemporary bail practices are being challenged at every level of government. The following are some examples of judgements and precedents being developed across the country:

- [New Jersey](#)
- [District of Columbia](#)
- [Cook County, Illinois](#)
- [Massachusetts](#)
- [Harris County, Texas](#)
- [Calhoun, Georgia](#)
- [Obama Administration Department of Justice](#)

Action Opportunities

First, gather a team within your congregation to research your local or state laws to identify where you can have the greatest impact.

Find Partners

You cannot do this work alone, and there are many others invested in the fight. Find community partners who can help educate your board and congregation or connect you to service or advocacy projects. In California, RAC-CA partnered with their [local ACLU](#) and [Human Rights Watch](#) in addition to local groups advocating for criminal justice reform. Be sure to reach out to organizations that have individuals who themselves or their family members have gone through the system. Their perspective is essential.

Identify the state or local legislation you will be working on and continue to build your congregation's justice team. The team will need to research the policy or legislative processes that the issue will need to go through in order for change to happen.

Identify the key targets – who are the decision makers that need to be contacted? Consider the best ways to raise awareness in the community and the best time to bring the issue to the decision maker. It is important to lay the groundwork and show that there is community interest in this issue before meeting with the decision maker. This can then be referenced during the [meeting](#) with an elected official or decision maker.

Add a Moral Voice

Bring speakers to your congregation who have been impacted by the criminal justice system. You can work with a transition program to help provide a speaker or call upon impacted individuals within your own community to speak about their experiences. Sharing stories and connecting the issue to our Jewish values from the pulpit increases empathy and decreases stigma.

Contact your Elected Officials

In coordination with your partners, [plan a meeting](#) with an elected official or decision maker to talk about potential bills to be considered. Advocate for legislation and policies that you have researched that will support change on the local, state, or national levels to provide fair and compassionate bail reform and oppose measures that penalize the poor. During this meeting, try to get a commitment from this individual. Also identify if there are other elected officials or decision makers who you will need to meet with to move this issue forward. Use these [Tips for a Successful Legislative Meeting](#) available at <http://www.rac.org/advocacyresources>.

You can also mobilize your congregation to advocate for or against legislation by engaging your congregants to make calls, write emails and letters, text, amplify with social media, and meet in-person with their legislators and their staff.

Know Your Stuff

Doing the work of seeking bail reform means understanding and presenting multiple aspects of the issue. There is an economic case for reforming our system, but also that which increases racial justice and ends pre-trial detention. Make sure you keep those latter two principles front-

and-center of your efforts for bail reform or you may end up with a replacement to bail reform that is worse than the status quo.

Support Local Bail Funds

While you work to advocate for systemic change, recognize that people can use immediate help. Consider raising money for bail funds to alleviate costs for people that are being detained.

Building Partnerships

- [ACLU](#)
- American Economic Review: [The Effects of Pretrial Detention on Conviction, Future Crime, and Employment: Evidence from Randomly Assigned Judges](#)
- Color of Change: [Mass Incarceration Starts with Money Bail, Our Freedom Starts with Ending It](#)
- [Human Rights Watch](#)
- JUSTIA: [Bail and Bonds](#)
- Pretrial Justice Institute: [Why We Need Pretrial Reform](#)
- The American Bar Association: [Bail Reform](#)
- The Hamilton Project: [The Economics of Bail and Pretrial Detention](#)
- The Marshall Project: [Bail Reform; A Curated Collection of Links](#)