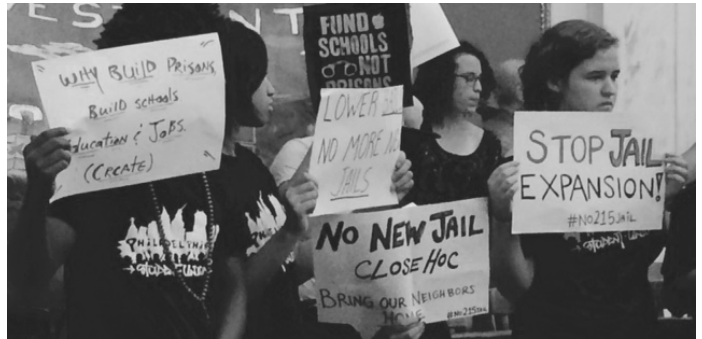


#No215Jail & #No215Bail

Our Goal: End Cash Bail in Philadelphia



Every day, there are thousands of people held in Philadelphia's jails solely because they cannot afford to pay for their release.

If City Council members are concerned about the deplorable conditions at House of Correction - as they should be - they should **address this immediately by implementing policy changes to significantly reduce the prison population so HOC can be closed without building a new jail.** The only way to do this is by abolishing cash bail and reforming the pretrial process. This will alleviate the current human rights abuses that are occurring at HOC due to overcrowding in a faster and more substantive way than constructing a new jail to "remedy" the problem.

Wealth-based detention has disastrous consequences. It causes huge disruptions in people's lives, often leading to loss of employment, housing, benefits and parental rights. It results in overcrowding of local jails, shockingly poor sanitation and medical care, and drained local budgets.

We must end the use of cash bail if we want to significantly decrease Philadelphia's overreliance on incarceration. By ending cash bail in Philadelphia, the city can lower the number of people in the Philadelphia jails, close down the dilapidated House of Correction, and allow people who are presumed innocent to remain at home with their families while awaiting trial.

We envision a city and state with:

- **No new jails and prisons**
- **Decarceration:** A lower prison population in Philadelphia and across the state
- **Community reinvestment:** Investment in the things that actually build safe and healthy communities: accessible social services, quality education, affordable housing and health care, comprehensive job training and reentry services, and more.

The #No215Jail Coalition is made up of organizations including the Institute for Community Justice, Decarcerate PA, Philadelphia Student Union, 1Love Movement, Youth Art & Self-empowerment Project, X-Offenders for Community Empowerment, and the Human Rights Coalition

Contact: DecarceratePA@gmail.com, 267-217-3372

Website: <http://decarceratepa.info/No215Jail>

Basic facts about Philadelphia Jails & Bail

Data detailing Philadelphia prisons' current overcrowding conditions and the devastating effects cash bail is having on poor communities in Philadelphia.

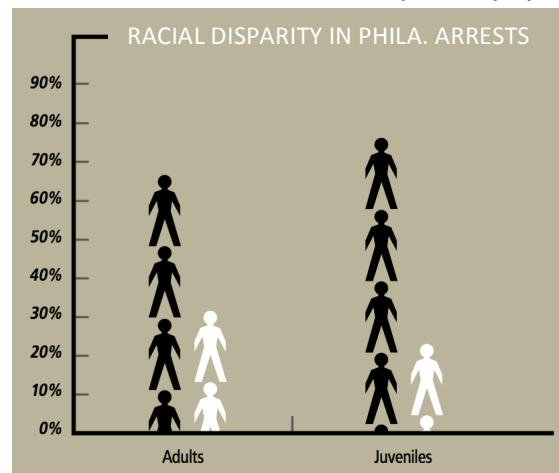
Who is in jail in Philadelphia

Philadelphia has the fourth highest incarceration rate of the nation's 50 largest cities. Nearly 6 of every 1000 Philly residents are behind bars.

- The Philadelphia Department of Prisons currently holds about 7500 people. Most are incarcerated in five facilities on State Road: HOC, CFCF, PICC, DC and RCF.¹
- Philadelphia jails have been over capacity for decades, and are designed to hold less than 6500 people. As of January 2015, there were 1,380 people in triple cells (3 people in a 2-person cell)²
- The House of Correction currently holds about 1500 people in deplorable conditions. It is a minimum-to-medium security facility, meaning people are held there on "low level" offenses.
- Philadelphia residents make up only 11% of PA's population, but 30% of the state prison population

People of color are disproportionately arrested & incarcerated in Philadelphia.³

- Compared to white people, black people are:
 - **5x** as likely to be incarcerated in prison/jail
 - **2x** as likely to be imprisoned once arrested
 - **3x** as likely to receive probation
- In 2009, the Philadelphia jail population was 73% Black, 13% Hispanic and 14% White.
- In 2014, 9 Black people were incarcerated for every White person in Pennsylvania



Philadelphia's Overuse of Bail⁴

About 75% of people held in Philly's jails are being held pre-trial

The majority are only held because they cannot afford to pay bail.

- Philadelphia holds far more people on cash bail than many other major cities. Philly imposes cash bail in 60% of cases, while New York City only imposes bail in 35% of cases, and Washington DC no longer uses money-based bail and only detains people in 15% of cases.
- Philadelphia's court system is slow & inefficient, and people face some of the country's longest waits for their cases to be heard. People wait 6 months before trial on average and 75% of cases remain unresolved after 3 months. In 2010, 15% of cases took more than 120 days to go to trial.
- Philadelphia still uses outdated bail guidelines from the 1980s. Magistrates follow recommended guidelines in only 50% of cases, and when they do not follow, they usually set higher bail.
- From 2003 - 2009 the mean bail set rose nearly 39% from \$14,445 to \$20,008.

The overuse of pretrial detention in Philadelphia is extremely costly

- Philadelphia spent more than \$246 million on corrections costs alone in 2015.⁵
- It costs \$120-\$135 per day to house one person in jail in Philadelphia. For those awaiting trial at an average of 6 months, the total cost would be **more than \$126 million** to hold people pretrial.⁶

¹ www.phila.gov/prisons

² <http://www.theatlantic.com/politics/archive/2016/03/a-reckoning-in-philadelphia/472092/>

³ http://www.urbanleaguephila.org/wp-content/uploads/2013/01/ULP_SOBP.pdf

⁴ "Philadelphia's Crowded, Costly Jails: The Search for Safe Solutions," PEW Report, 2010

⁵ <http://www.phillyvoice.com/could-philadelphia-prisons-do-away-bail/>

The Impact of Cash Bail

Wealth-based detention keeps people in jail when they otherwise could safely remain in the community while awaiting trial

Punishes the Poor

Cash bail punishes & incarcerates people solely based on their wealth and income

- Cash bail results in a system that locks people up simply because they cannot afford to pay, regardless of their risk of fleeing court or committing a new crime
- The majority of those held on cash bail are “low risk” defendants held on nominal bails
- Nearly half of “high risk” defendants are released before trial because they can afford to pay bail

Reliance on a money-based pretrial system disadvantages people of color, who are more likely to be living in poverty

- Because of deep racial disparities at every stage of our criminal justice system, Black and Latino/a defendants are more impacted by the use of cash bail.
- A recent study showed Black defendants were less likely to be released on their own recognizance than White defendants, and that Black youth ages 18-29 receive significantly higher bail amounts

People held pre-trial on bail are disadvantaged in the court process

- People who are held pre-trial have less contact with defense attorneys and are more likely to accept a plea bargain to avoid further incarceration, regardless of guilt or innocence
- People held on bail are more likely to be sentenced to prison time.

Compared to defendants released prior to trial, those who were held on bail had:

- ♦ **4x** greater likelihood of a jail sentence
- ♦ **3x** greater likelihood of a prison sentence
- ♦ **3x** longer jail sentences
- ♦ **2x** longer prison sentences

Disrupts Lives & Destabilizes Families

Even short periods in jail pretrial can cause deep harm & trauma, including...

- Decline of physical, mental and emotional health. Disruption of treatment & medication.
- Loss of employment, eviction from housing, loss of insurance & benefits
- Loss of custody of children & termination of parental rights. Children experience the trauma and emotional distress of losing their parents, and often end up in foster care or with relatives.

Pretrial detention *increases* the likelihood of failure to appear in court & recidivism, because even short periods of detention have a *destabilizing* effect.

- Studies show that defendants detained pretrial for more than 24 hours were *more likely* to be arrested for new crimes even years later. Compared to those held less than one day in jail:
 - **3 days** in jail pretrial → **40%** more likely to be re-arrested
 - **2 weeks** in jail pretrial → **56%** more likely to be re-arrested
 - **1 month** in jail pretrial → **74%** more likely to be re-arrested
- Recent research shows that defendants held pretrial in Philadelphia in 2016 had higher rates of rearrest, lower rates of employment, and lower earnings than those released without bail.⁷

Wastes Taxpayer Dollars

Cash bail costs the city over **\$120 million** to hold people in jail for months awaiting trial.

Instead of wasting money keeping presumed innocent people behind bars, we could reinvest that money into our communities –into schools, jobs, housing, treatment – to *support* people in staying out of jail.

⁶ <http://www.usnews.com/news/us/articles/2015/12/02/its-jails-bursting-philadelphia-seeks-bail-system-changes>

⁷ Dobbie, Goldin, and Yang (2016). http://conference.nber.org/confer/2016/SI2016/CPI/Dobbie_Goldin_Yang.pdf

Alternatives to Cash Bail

Rather than locking people up unnecessarily and unjustly, there are effective alternatives to cash bail that exist to help people through the judicial process and better serve everyone involved – including the accused, people who have experienced harm, communities and taxpayers. We are enclosing information about some strategies being implemented around the country as alternatives to holding people on cash bail.

We envision:

- ✓ A system in which people are treated as **innocent until proven guilty** – and the presumption is that you should be able to continue your life while awaiting trial.
- ✓ A system where detention is a **LAST** resort
- ✓ A system in which your right to continue your life pre-trial is not dependent on your access to economic resources
- ✓ Holistic pre-trial & support services that focus on assisting a person in getting to court, accessing quality legal representation, addressing housing and mental health needs, finding sustainable employment, and more.
- ✓ A system that looks to and learns from other successful alternative models such as the Red Hook Community Center.

Current Initiatives to Reform Bail

In Pennsylvania

- Pennsylvania State Senator Daylin Leach, Minority Chair of the Senate Judiciary Committee, has announced his intention to introduce legislation to end pretrial detention for failure to pay bail. We are enclosing his co-sponsorship memo.
- New Philadelphia Mayor Jim Kenney has said that he is committed to reforming Philadelphia's bail system and holding fewer people pre-trial.
- The City of Philadelphia was recently awarded a \$3.5 million grant from the MacArthur Foundation to find ways to reduce the county jail population by 34% over the next 3 years, and ending cash bail will be essential in reaching, and hopefully *exceeding*, this goal.

Our Neighbors Have Been Ending Cash Bail

- **Washington DC** has ended the use of cash bail
 - In DC, defendants are never held because they are unable to pay
 - 91% of all individuals arrested in 2015 were released before trial
 - About 9 out of every 10 people arrested are released **within 24 hours**
 - Of pretrial releases, 90% did not commit additional crimes before trial date. Of the remaining 10%, the vast majority of new arrests were not violent.
- **New York City** has recently implemented bail reforms to reduce the number of people held for minor offenses, and is considering options for further reducing the use of cash bail⁸
- **New Jersey** has implemented bail reform that will take effect January 2017
 - The new bail reform prioritizes non-monetary release options, requires an individualized risk assessment before an initial bail hearing, establishes comprehensive pretrial services agencies, and guarantees timelines for a speedy trial
- **Chicago** is adopting a new system that would allow those accused of non-violent crimes to be released if their cases take more than 30 days to get to trial

⁸ <http://www.npr.org/2015/07/09/421359530/new-york-city-to-end-cash-bail-for-low-level-defendants>

National Bail Reform

Across the country, Bail is being declared unconstitutional

6 in 10 people in U.S. jails have not yet been to trial, and the vast majority are there because they cannot afford cash bail.⁹ Bail amounts have steadily increased across the country over the last several decades¹⁰, but stakeholders across the country are finally waking up to the fact that this unjust system needs to change.

- In January 2015, Equal Justice Under Law launched its first challenge to money bail systems in federal court in Alabama. The case, *Varden v. City of Clanton*, has drawn national attention in the wake of the United States Department of Justice’s decision to file a Statement of Interest in the case. Since the beginning of 2015, Equal Justice Under Law has filed nine class action challenges to money bail systems in seven states. So far, as a result of their lawsuits, cities in Alabama, Missouri, Mississippi, and Louisiana have reformed their practices to end the use of secured money bail for new arrestees.¹¹
- In March 2016, Congressional lawmakers and the Obama administration introduced efforts to abolish the practice of cash bail. Attorney General Loretta Lynch spoke out about the “consequences of the criminalization of poverty,” and the Department of Justice urged state court judges and administrators to replace cash bail with pretrial detention models based on risk assessment, so that more individuals could await trial at home. Democrats also introduced a Housebill that would withhold DOJ grant dollars from states that use payment of money as a condition of pretrial release with respect to criminal cases. The “No Money Bail Act of 2016” is awaiting consideration by a subcommittee, but has the support of several prominent prison reform and social justice groups.¹²

⁹ <http://www.pretrial.org/new-ferguson-inspired-campaign-launches-to-end-cash-bail-reduce-arrests-and-cut-pretrial-detentions-in-20-states-by-2020/>

¹⁰ & ¹⁰ “Bail Fail: Why the U.S. Should End the Practice of Using Money for Bail”, Justice Policy Institute (September 2012)

¹² <https://nextcity.org/daily/entry/cities-alternatives-cash-bail>

Additional Policy Reforms to end Pretrial Detention

While ending cash bail would be a huge step in reducing the jail population, it is true that **we need to do more** to end unjust pretrial detention and bring people home.

Here are some policy reforms that would help:

- **Stop locking people up for probation violations:** Between 2000 and 2008 the number of individuals admitted to PPS for parole or probation violations rose by 90% and their average number of days spent in jail increased from 49 to 78. In 2010, 21% of prisoners in PPS were being held on violations. Research across the country and by Philadelphia's own APPD (Adult Parole/Probation Division) has shown that reducing parole requirements reduces violations without affecting recidivism for new crimes. Detention for probation violations should be a *last resort*, and there should be restrictions on how long individuals can be held on "detainers" – as they are currently jailed for indefinite periods of time with no possibility of release before VOP hearing.
- **Guarantee speedy trials:** Nobody should be held for months without even seeing a judge. Individuals should be seen & evaluated within 24 hours of arrest, and there should be limits on how long someone can remain incarcerated before trial.
- **Stop holding people on misdemeanor charges:** Although only 10% of people in PPS are held for misdemeanor charges, the recent spike in the Philadelphia jail population can partially be attributed to the increase in arrests for misdemeanor offenses - many of which are crimes of survival such as prostitution and retail theft.
- **End racially discriminatory policing and prosecution tactics:** Who the police target for arrest and how the District Attorney's office charges people has a large impact on who is in the Philadelphia Prison System. The practice of overcharging is often used to pressure defendants to accept a plea offer to lesser charges, and police routinely target people of color and people in poor and working class neighborhoods to be stopped, frisked, and arrested. Of the adults arrested in Philadelphia in 2012 for marijuana possession, 3,052 were Black, and 629 white - though studies have consistently found that Black people and white people use marijuana at similar rates.
- **Shut down the Bench Warrant Court:** In 2012, the First Judicial District created a [Bench Warrant Court](#) to "get tough" on people who fail to show up for court dates. About 1/3 of defendants who appear in bench warrant court are given short jail terms for "contempt of court." Although people are generally only sentenced to serve a few days on their bench warrant violation, the court can also reset their bail - causing many people to spend more time in the Philadelphia jails pre-trial.