

POLICY MEMO #1 – BAIL REFORM

ISSUE OVERVIEW

The cash bail system currently practiced by the judges of Criminal District Court is a form of **money injustice**. The stark effect of its perverse incentives is that those arrested for **non-violent offenses who are poor** are more likely to remain incarcerated while awaiting trial than those arrested for **violent offenses who are wealthy**.

New Orleans puts people in jail at a rate 30 percent higher than the national average. This burden falls disproportionately on black New Orleanians: of the more than one third of people in jail who are incarcerated because they can't afford to pay money bail, eight in 10 are black. And black families pay 88 percent of the dollars extracted through money bail. New Orleans families spend approximately \$6.8 million each year on bail fees and premiums. (1)

The judges of Criminal District Court **continue to set cash bail at higher rates than necessary** despite a federal judge and an appellate court finding that they have a clear conflict of interest in the user-pay system.

The cost to the city of keeping the average person in custody at the New Orleans jail is \$33.21 a day, on top of the jail's normal operating costs. (2) Detaining individuals arrested for non-violent offenses before trial has cost **Orleans Parish taxpayers millions of dollars** that could have otherwise been returned to the City's coffers and invested in our communities. It frequently brings about **severe collateral consequences** for those detained, such as the loss of employment or housing.

Individuals who are detained pre-trial are **innocent until proven guilty**, yet they often experience **undue pressure to plead guilty** simply so that they can get out of jail, even when they did not commit the crime with which they were charged. This state of affairs **denies justice** not only to those individuals, but also – because the true perpetrators remain at large – to crime victims.

(1) <https://www.vera.org/downloads/publications/paid-in-full-report.pdf>

(2) https://www.nola.com/news/courts/article_dea93a46-ecd2-552d-89ac-632c8e993888.html

REAL REFORM.

REAL CHANGE.

POSITION SUMMARY

As Orleans Parish District Attorney, Jason Williams will:

REDUCE COVID-19 Immediately upon taking office, seek to evaluate the bail conditions of individuals arrested for low-level, non-violent offenses who continue to be detained in jail pre-trial and recommend alternatives to incarceration where appropriate in order to **reduce the spread of COVID-19 in our community.**

MOMENTUM Build on the momentum of the **2017 New Orleans City Council** ordinance that virtually eliminated the use of money bail for individuals arrested for municipal offenses.

PRINCIPLE Be guided by the **presumption of innocence and the principle that pre-trial** detention should be used judiciously, such that those arrested for low-level, non-violent offenses should generally be released from jail as they await trial, while those arrested for violent offenses should generally be held in jail pre-trial in the interest of public safety.

DETENTION Where pre-trial detention is recommended, **support evidentiary hearings** to determine each individual's risk of harm to another or to the community and risk of flight, with the individual provided legal counsel as needed.

NOMINAL AMOUNTS Where state law requires money bail (instead of releases on recognizance, or RORs) to be set for low-level, non-violent offenses, **support the setting of nominal amounts** so that individuals are not detailed in jail solely because they are poor.

ALTERNATIVES TO CASH BAIL Recommend the use of **alternatives to cash bail** where appropriate, based upon individualized needs assessments – for example, regular calls or check-in appointments.

PRE-TRIAL SERVICE Promote pre-trial services that make it more likely that individuals will **appear in court when required** – for example, text message notification.

NON-PROFIT BAIL Encourage the efforts of **non-profit bail funds.**

INCREASE TRANSPARENCY Drawing on his experience implementing the Bonds Paid Dashboard as Chair of the New Orleans City Council's Criminal Justice Committee, work with all relevant actors in the criminal justice system to **increase transparency** on the types of bail being set and, if cash, in what amounts; as well as the types of individuals that are and are not being released from custody pre-trial.