



THE BUCKEYE INSTITUTE

**“Money Bail”
Making Ohio a More Dangerous Place to Live**

December 11, 2017

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Introduction

In 2015, Dragan Sekulic of Stark County, Ohio used his car as a battering ram attempting to kill his ex-wife.¹ Sekulic's would-be victim survived the crash and Sekulic, who had been charged with domestic violence before, faced charges of felonious assault, domestic violence, and operating a vehicle while intoxicated.² Working with a bail-bond agent, Sekulic posted the \$100,000 bond set by the court and walked free to await his trial.³ Two weeks later, free on the posted bail, Sekulic found his ex-wife and finished what he had started, shooting her dead.⁴

Though shocking, such tragic stories are remarkably far too common in Ohio and across the United States. Many criminal justice systems throughout the country, for example, foster an outmoded practice of pretrial release that allows accused murderers, child rapists, armed robbers, and dangerous gang members to be arrested and released into our communities to await trial. Meanwhile, many jurisdictions allow otherwise law-abiding, harmless citizens to sit in jail for days, weeks, or even months before trial for jaywalking, violating dress-codes, or failing to pay traffic tickets. These absurd incongruities stem from a pretrial release system rooted in money rather than a careful, scientific assessment of the risks that the accused pose to our neighborhoods.

Looking for a fairer, more cost-effective approach to pretrial release, some jurisdictions have transitioned from cash bail to more sophisticated actuarial risk-assessment tools to help courts decide who should go home and who should remain a guest of the state. Jails are not cheap to maintain and taxpayers pay a high price for holding people who have not yet been convicted. Indeed, pretrial detention costs an estimated \$14 billion annually in the United States,⁵ and Ohio's Cuyahoga County alone spent \$42 million in 2013 jailing pretrial defendants.⁶

Reform-minded jurisdictions realize that a more scientific approach to pretrial detention should look at more than the size of the accused's bank account to ensure public safety, judicial fairness, and fiscal responsibility. Unfortunately, the \$2 billion per year bail-bond industry continues to fight for the failed status quo even as some jurisdictions discover the advantages of safer, fairer, and more cost-effective pretrial release policies. In resisting bail reform across the country, the bail-bond industry has been quick to highlight any and all shortcomings of risk-assessment tools utilized by courts. But advocates of money bail ignore the harsher realities of the status quo, its potentially harmful effects on low-level, low-income defendants, and the dangers it continues to create in our communities.

Bail Basics

Despite the Constitution affording criminal defendants the right to a "speedy and public trial," there remains, of course, some period between the accused's arrest and his standing trial. During such time, the defendant enjoys the presumption of innocence, having not yet been convicted of a

¹ Michael E. Miller, **An Ohio Man Allegedly Tried to Kill His Ex-Wife. When He Got Out on Bail, Police Say He Finished His Crime**, *The Washington Post*, December 10, 2015.

² *Id.*

³ *Id.*

⁴ *Id.*

⁵ **Pretrial Justice: How Much Does it Cost?**, Pretrial Justice Institute, January 1, 2017.

⁶ Sara Dorn, **Bail Reform Could Save U.S. Taxpayers \$78 Billion, Study Says**, *Cleveland.com*, January 31, 2017.

crime. But those accused of crimes have some incentive to avoid standing trial and, if released, may flee the jurisdiction and never appear in court to face the proverbial music. Moreover, dangerous defendants, like Mr. Sekulic, may even commit more crimes while awaiting trial. Thus, the United States Supreme Court has recognized that the state's interest in the public's safety may allow the accused to be detained before and during trial.⁷ The Court emphasized that such pretrial detention must be a regulatory measure to ensure public safety and the accused's appearance for trial.⁸ If pretrial detainment is used to punish the accused, observed the Court, it is an unconstitutional violation of the right to due process of law.⁹

Pretrial detention, therefore, is the exception to the otherwise applied rule of pretrial release. But to manage the problem of criminal defendants fleeing before their trials, legal systems for centuries have resorted to monetary bail to ensure that those accused of a crime appear for trial.¹⁰ After the accused's arrest, the court will "set bail." Bail, especially for low-level offenses, is usually set by a standardized bail schedule. Thus, for example, if a defendant is charged with X, bail will be set at \$Y. Bail schedules can vary widely across the state,¹¹ but they typically do not account for the accused individual's particular circumstances. After the court sets bail, the accused will then be released only after he deposits the bail amount with the court or pays for a third party to provide the court with a surety bond. If the accused does not return for trial, he forfeits the bail money and the court will issue a warrant for his return.

Bail or Jail: A Hobson's Choice for Low-level Offenders

Unfortunately, the money-based bail system has led to perverse instances in which dangerous but well-off defendants roam free pending trial, while many low-level offenders who pose no real threat to the community but cannot afford bail remain in jail for days, weeks, or even months until trial.¹² Many low-level offenders actually stay in jail for extended periods for alleged offenses that do not require jail time upon conviction. Pretrial incarceration, even for a short time, can do long-term damage such as job-loss to those accused of low-level crimes. And in some cases, even if a defendant finds a way to afford bail, doing so may induce financial hardship and strain relationships, which may then increase the risk that the accused will commit another crime.¹³

As policymakers examine the true and long-term value of maintaining the cash bail status quo, they would do well to consider the use of public resources in the following examples of the current system's treatment of low-level offenders.

⁷ *U.S. v. Salerno*, 481 U.S. 739, 748, 1987.

⁸ *Id.*

⁹ *Id.*

¹⁰ Donald B. Verrilli, Jr., *The Eighth Amendment and the Right to Bail: Historical Perspectives*, 82 Colum. L. Rev. 328, 331, 1982.

¹¹ *Ad Hoc Committee on Bail and Pretrial Services: Report and Recommendations*, Ohio Criminal Sentencing Commission, March 2017, p. 14.

¹² Christopher Ingraham, **Why we Spend Billions to Keep Half a Million Unconvicted People Behind Bars**, *The Washington Post*, June 11, 2015.

¹³ Arpit Gupta, Christopher Hansman, and Ethan Frenchman, **The Heavy Cost of High Bail: Evidence from Judge Randomization**, August 18, 2016, p. 19.

Young Man Jailed Nine Days for Saggy Pants at Bus Station¹⁴

Markcus Brown spent nine days in jail after being arrested for violating the Regional Transit Authority's (RTA) dress code. RTA rules require patrons to dress and act in a certain way. Violating those rules amounts to trespassing.

Brown had been warned previously that his attire violated RTA policy, but flaunted the dress code. After his arrest, Brown's bail was set at \$150, which may not be much to many, but Brown and his family could not afford it. Brown sat in jail until his mother secured a car title loan nine days later. He pleaded guilty and was assessed \$111 in court costs and banned from RTA buses.

Four Days in Jail for Jaywalking and Public Intoxication¹⁵

In April 2016, 23-year-old Thomas Stepien spent four days in jail for a drunken jaywalking charge. On a Saturday night around 2 a.m., Stepien and a friend were walking home from a bar when a police officer noticed a vehicle slowing down to avoid hitting the two men in the street. While arresting the young men, the officer noticed that they were intoxicated. Stepien and his friend were charged with disorderly conduct, jaywalking, and being intoxicated on a highway. Their bail was set at \$700 each—\$350 for the criminal charge and \$350 for both traffic charges.

Stepien had never been convicted of a felony or violent crime, but stayed in jail for four days because he could not afford the \$700 bail. Despite maintaining his innocence, Stepien pleaded guilty to disorderly conduct and failing to use a crosswalk in order to avoid spending more time in jail. He was sentenced to six months of probation and 30 days in jail with 26 days suspended and a four-day credit for the time he had already served.

Jailed a Week for Not Paying Traffic Ticket¹⁶

Edward Lee Wright IV, a Cleveland resident and father of three, failed to pay a \$375 traffic ticket and it cost him a week in jail. Police ticketed Wright for driving on a suspended license due to a lapse in car insurance. Wright could not afford the ticket, but the court agreed to accept \$50 per month until the ticket was paid in full. After he forgot to make two monthly payments, the court issued a warrant for Wright's arrest. He was arrested and given the choice of sitting in the Solon jailhouse or paying \$1,100 for bail.

After sitting in jail for seven days, Wright pleaded no contest to a new charge of contempt of court for skipping out on his monthly court payments.

¹⁴ Laura A. Bischoff, **Man Does 9 Days in Jail after Arrest for Trespassing at RTA Hub; Couldn't Afford Bail**, *Dayton Daily News*, July 13, 2017.

¹⁵ Sara Dorn, **Lyndhurst Man Who Can't Afford Bail Waits 4 Days to Answer Drunken Jaywalking Charge: Impact 2016: Justice For All**, *Cleveland.com*, October 25, 2016.

¹⁶ Sara Dorn, **Shaker Heights Jailed this Traffic Offender for a Week Because He Couldn't Pay Bail: Impact 2016: Justice for All**, *Cleveland.com*, October 25, 2016.

Bail Reform: Finding a Better Way

Thanks to journalism and effective advocacy, the public has gradually awakened to the inherent unfairness of the status quo system, and calls for meaningful reform have grown louder as stories continue to surface of those accused of petty crimes being jailed before trial merely because they cannot afford small amounts of bail.¹⁷ But the prevalent cash bail system used by most jurisdictions across the country presents other difficulties often over-looked by the public and even reform-minded advocates.

Typically, bail agents perform rather routine tasks to ensure that those free on bail appear in court at the required time. Agents, for example, often call or text their clients to remind them of court dates¹⁸ and some may even get the accused's family members involved to ensure compliance with the court's orders.¹⁹ Less frequently, bail agents will attempt to recover or apprehend fugitives who have skipped-out on the court's orders and fled. Regrettably, if predictably, fugitive recovery efforts performed by bail agents or bounty hunters instead of trained law enforcement officers do not always end well. In April 2017, bounty hunters in Tennessee killed an innocent man while trying to return a fugitive.²⁰ Then in June, three people were killed during a 20-round shootout between a fugitive and Texas bounty hunters.²¹ And in Cleveland, Ohio, two bounty hunters were shot while attempting a fugitive recovery.²² Such tragic incidents are recent reminders that state law should not create incentives for civilians with twenty hours of classroom training to perform dangerous law enforcement functions that put them, the fugitive, and the public at risk.

The current money bail system, of course, has the advantage of longstanding tradition, but that advantage does not mean it is the best solution going forward. Instead of the rather arbitrary approach of cash bail, with its inherent prejudice against poorer defendants, courts should take a more individualized view of each case to deny bail for the truly dangerous, and customize release conditions for those freed while awaiting trial. With evidence-based risk-assessment tools, courts can better determine which defendants pose a real threat to the community, are likely to flee, or will return as-required to stand trial.²³

Actuarial risk-assessment tools have helped forge remarkable results. Since switching to an evidence-based risk-assessment system, Lucas County, Ohio, for example, has seen more defendants released before trial, more defendants appearing for trial, and less crime committed by those awaiting trial.²⁴ Crime committed by those on release, for instance, dropped from 20 percent

¹⁷ Christopher, Ingraham, **Why we Spend Billions to Keep Half a Million Unconvicted People Behind Bars**, *The Washington Post*, June 11, 2015.

¹⁸ See Mark Heffernan, **Texting Defendants Court Date Notifications: A great practice that makes a lot of sense – when it's done by private bail agents rather than inept, unaccountable government workers**, BailBondsman.com, October 5, 2016.

¹⁹ **Bail Reform**, bailreform.us, (Last visited October 3, 2017).

²⁰ Matthew Haag, **On Trail of Suspect, Bounty Hunters Killed an Innocent Man**, *The New York Times*, May 3, 2017.

²¹ Christine Hauser, **Texas Bounty Hunter Shootout Kills 3, Raising Questions**, *The New York Times*, June 1, 2017.

²² Donna J. Miller, **2 Bounty Hunters Shot Trying to Arrest Cleveland Man**, Cleveland.com, May 22, 2017.

²³ Shaila Dewan, **Judges Replacing Conjecture with Formula for Bail**, *The New York Times*, June 26, 2015.

²⁴ **New data: Pretrial Risk Assessment Tool Works to Reduce Crime, Increase Court Appearances**, Laura and John Arnold Foundation press release, August 8, 2016.

to 10 percent.²⁵ Those skipping their court date dropped by 12 percent, even as the number of people released without money bail doubled.

The Lucas County results are no fluke. San Francisco, currently using a similar risk-assessment tool, has seen its crime rate by those awaiting trial slashed in half,²⁶ and New Jersey, after implementing statewide reforms this year, has witnessed an overall 17 percent drop in violent crime and a 27 percent drop in murders.²⁷

As actuarial risk-assessment tools become more common and their results more widely-known, more states and local jurisdictions have and will be pursuing bail- and pretrial-reform efforts. But those efforts have been resisted by at least one powerful lobby presenting self-interested contentions that must be addressed.

Bail Industry Resists Reform

Democrats and Republicans,²⁸ the American Bar Association,²⁹ and the Ohio Sentencing Commission³⁰ have all decried the injustices of the status quo cash bail system and called for bail reforms that will be less concerned with a defendant's bank account than with the particular risk he poses to the public. Despite broad support within the legal community for reform, the bail bond industry remains staunchly opposed to commonsense improvements to the current pretrial release system.

Bail bonds support a \$2 billion per year industry.³¹ When a defendant cannot afford set bail, a bond agent may deposit a surety bond with the court on the defendant's behalf. In most states, including Ohio, the law requires that bail companies charge the accused 10 percent of the bail—non-refundable.³² For example, for bail set at \$10,000, the accused must pay a non-refundable \$1,000 plus fees to the bond company. Thus, even if the charges are dropped or the defendant is found not-guilty, the bail agent keeps 10 percent of the court-ordered bail. Other perverse incentives plague the bail system as well. For instance, many times even when the accused flees or “skips bail” the posted bond will not be lost,³³ or if the accused is rearrested and brought back to the court within a year, the bail agent may still retain the bond.³⁴ Such a policy creates incentives for bail

²⁵ *Id.*

²⁶ Marisa Lagos, **Bail or Jail? Tool Used by San Francisco Courts Shows Promising Results**, KQED News, September 27, 2017.

²⁷ Michael Symons, **Christie on Dog the Bounty Hunter Bail Reform Lawsuit: Bring it on**, New Jersey 101.5, August 2, 2017.

²⁸ Kamala D. Harris and Rand Paul, **Kamala Harris and Rand Paul: To Shrink Jails, Let's Reform Bail**, *The New York Times*, July 20, 2017.

²⁹ **ABA Standard 10-5.3(b)**, American Bar Association, (Last visited October 4, 2017).

³⁰ **Ad Hoc Committee on Bail and Pretrial Services: Report and Recommendations**, Ohio Criminal Sentencing Commission, March 2017.

³¹ Gillian B. White, **Who Really Makes Money Off of Bail Bonds**, *The Atlantic*, May 12, 2017.

³² Ohio Rev. Code Ann § 3905.92(D).

³³ Sara Dorn, **Advocates for Fairer Bail can Expect Bail Bond Agents to Fight Reform: Impact 2016: Justice For All**, Cleveland.com, July 5, 2016.

³⁴ **Bail and Recognizance**, Cuyahoga County Clerk of Courts, (Last visited October 3, 2017).

agents to post bond for high-bail defendants who are most likely to be rearrested.³⁵ In such cases, the bond agent keeps the non-refundable 10 percent of the bail money, while the responsibility of finding the accused fugitive shifts to the state. Thus, the bail agent will reap the reward without risking any of the responsibility.

Regrettably, many current bail laws and policies effectively codify the profits of the bail bond industry, making the industry vehemently opposed to any reforms that might threaten those profits—even though reform is sorely needed. Fearing extinction, the bail industry has sent reality-TV star Duane “Dog the Bounty Hunter” Chapman around the country on a public relations tour opposing bail reform,³⁶ and filed meritless lawsuits against localities that have moved beyond traditional cash bail.³⁷ Indeed, several bond agents even sued county common pleas judges for “lost profits” because the agents believed that the judges’ bail practices did not sufficiently benefit the industry.³⁸

Some bail industry representatives have recognized that reform appears inevitable and have begun calling for “bail grants” to help poorer defendants secure pretrial release.³⁹ Under a “bail grant” scheme, the government—rather than the accused—would pay the bond to the bail agents for low-level offenders who cannot afford the bond. Such an audacious plan would seem to double-down on the cozy relationship between the bail-bond industry and the government, and just pay the bail agents with tax dollars. It is bad enough that state law thus far has effectively codified bail-bond profits, it does not now need to use taxpayer dollars to pay those profits directly.

As public debate on bail reform begins to boil, the bail-bond industry has been quick to publicize any crime committed by someone on pretrial release under an actuarial risk-assessment tool.⁴⁰ Fair enough. After all, no pretrial release system can eliminate public safety risks completely without violating fundamental constitutional rights and protections. But the status quo cash bail protocols have allowed more than their fair share of crime and violence to be inflicted on our communities by pretrial criminal defendants free on bond. Several tragic examples from Ohio illustrate the point.

³⁵ *The Truth About Commercial Bail Bonding in America*, The National Association of Pretrial Services Agencies, August 2009.

³⁶ Peter Krouse, **Dog the Bounty Hunter Barks at Bail Reform in California, but Lawmakers in Connecticut and Illinois Embrace it: Justice for All**, Cleveland.com, June 16, 2017.

³⁷ S.P. Sullivan, **Opponents of Christie’s Bail Overhaul Lose Another Round in Court**, nj.com, September 21, 2017; and Daniel J. Dew, **Hail Mary Lawsuit in NJ is about Bail Industry Profits, Not Safety**, University of Pretrial, July 11, 2017.

³⁸ State ex rel. Sylvester v. Neal, 140 Ohio St.3d 47, 2014.

³⁹ **Bail Reform**, bailreform.us, (Last visited October 3, 2017).

⁴⁰ **Top 25 NJ Bail Reform Failures – March 2017 Edition**, US Bail Reform News, May 16, 2017.

*Released on Bond, Rape Suspect Allegedly Murders 10-Year-Old Victim and Family*⁴¹

Charged with raping his ex-girlfriend's 10-year-old daughter, Robert Seman allegedly murdered his victim and her grandparents by setting their home on fire. Prosecutors had indicted Seman for rape and sexually abusing the little girl for four years. Despite the serious charges, Seman posted his \$200,000 bail and was released under a court order requiring him to wear an ankle monitor and placing him under house arrest. Just hours before the start of Mr. Seman's trial, the home of the girl's grandparents went up in flames, killing the grandparents and the 10-year-old victim scheduled to testify.

Seman then faced aggravated murder charges, three counts of aggravated arson, and three counts of aggravated burglary. Given the horrific nature of the crime the prosecutor sought the death penalty for Seman. But the day before his murder trial's jury selection, Seman committed suicide, jumping from the fourth-floor courthouse balcony.

*Man Released on Bond, Accused of Shooting Another for Refusing Gang Membership*⁴²

William Holmes was released on bond for two separate offenses when he shot a 20-year-old man for refusing to join his gang, the Heartless Felons. According to the victim, the two men argued on Facebook before Holmes tracked him down at a basketball court. A heated confrontation ensued and Holmes pulled out a gun and shot the victim three times.

Six months before the shooting, Holmes had been arrested for illegally possessing a firearm, and was released on a \$50,000 bond. Three weeks later, police arrested Holmes again—this time for possession of a stolen vehicle with a gun found under the driver's seat. Again, Holmes was released on bail. At the time of the shooting, Holmes already had pleaded guilty to weapons charges and receiving stolen property, but he skipped his sentencing hearing and a warrant had been issued for his arrest.

Holmes remains a dangerous, wanted fugitive from justice.

*Violent Offender Released on Bail Endangered Mother of Two*⁴³

Eddie Wilson already had pleaded guilty to "disorderly conduct" for strangling a woman when he was arraigned on charges of kidnapping, menacing by stalking, and a weapons violation. Relying on cash bail, the court released Wilson within 24 hours of his arraignment.

Wilson was dating Ashley Riley, a mother of two, who lived at the complex where Wilson was a security guard. Riley and Wilson were in his truck when Wilson accused Riley of dating other men. Wilson then punched Riley in the mouth and when she reached for the door to escape Wilson

⁴¹ John Caniglia, **Witness Silenced in Youngstown: Corinne Gump, 10, Dies in Fire Hours Before Suspect's Rape Trial Begins**, Cleveland.com, April 28, 2015; **Associated Press, Defendant in Triple Slaying Jumps to Death from Youngstown, Ohio Court Balcony**, NBC4i.com, April 14, 2017.

⁴² Cory Shaffer, **Cleveland Man Charged in Shooting Over Gang Membership**, Cleveland.com, June 6, 2016.

⁴³ Sarah Buduson, **Broken Bond: How a Flawed Bail System in Ohio can Leave Victims in Danger**, News5 Cleveland, July 21, 2017.

pulled a gun and seethed “you are not going anywhere.” Holding Riley at gunpoint, Wilson drove to his home, parked behind a dumpster, and struck Riley again, causing her to briefly lose consciousness. Wilson then drove the battered but revived Riley to her apartment. As soon as Wilson left, Riley dialed 911. Officers responded quickly, found Wilson and arrested him.

At his arraignment, Wilson paid the required 10 percent of his \$10,000 bail and was again released.

Free on bond, Wilson tried to reconnect with Riley on FaceTime, but Riley ignored the call and alerted prosecutors. Wilson’s case was reassigned, his bail was raised to \$50,000, and he was ordered to wear a GPS monitor. The court-ordered tracking device may deter Wilson from stalking or finding Riley again, but the thousands of dollars that Wilson has paid the bail-bond agent has not done much to keep Riley and her children safe so far.

Former Mayor Raped Four-Year-Old Girl, Freed on \$75,000 Bail⁴⁴

After Richard Keenan, the former mayor of Hubbard, Ohio, was indicted on eight counts of gross sexual imposition, eight counts of rape, and four counts of attempted rape of a minor, he was booked at the county jail and released on the same day after posting a \$75,000 bond.

Incredibly, Keenan claimed that the four-year-old girl was a willing participant who initiated the sex acts. While out on bail, Keenan told his wife that “he did it.” Keenan was then admitted into a psychiatric ward where he again confessed. Keenan later pleaded guilty and was sentenced to life in prison with the possibility of parole after 10 years.

Armed Robber Free on Bail Steals from School⁴⁵

In March 2017, Michael Flanigan was arraigned on charges of aggravated robbery, robbery, receiving stolen property, and misuse of credit cards after he was arrested for robbing a pizza delivery driver at gunpoint. His bond was set at \$200,000. Flanigan posted bail and was released pending trial.

Even Flanigan’s high bail could not deter him from committing more crime. He was arrested again a month later after a man who purchased a stolen iPad from him noticed a St. Jude sticker on the device. The St. Jude School had been robbed recently and the school’s surveillance video implicates Flanigan as the perpetrator. The video shows Flanigan prying open locked cabinets, looting two laptops, an iPad, and an undisclosed amount of cash.

Wary of Flanigan’s criminal past, officers have warned, “We’re hoping he’ll have a very high bond and that he’s not going to get out and continue to commit crimes.” But even a high bond failed to stop him from robbing a school the first time.

⁴⁴ Glenn Stevens, **Former Hubbard Mayor Richard Keenan Receives Life Sentence for Child Rape**, 21WFMJ, April 29, 2017.

⁴⁵ Kelsey Leyva, **Police: Elyria Man Free on Bond Breaks into St. Jude School**, *The Morning Journal*, April 18, 2017.

*Columbus Man Released on Bail Commits Armed Burglary*⁴⁶

Victor N. Milton, a 20-year-old from the Columbus area, was in police custody just a week before he burglarized three people at gunpoint. Milton had been indicted for breaking and entering into 12 homes in Franklin County and stealing more than \$42,000 of property, but was released into the community after posting bail.

A week later, Milton and two accomplices burglarized an apartment in the university district, robbing three residents at gunpoint. After his arrest and conviction, Milton was sentenced to 26 years in prison.

*Cleveland Man Released on Bond Re-Arrested for Threatening Girlfriend*⁴⁷

Dale Batke's ex-girlfriend called police after he physically assaulted her. When police arrived at the apartment Batke led them on a high-speed chase in a stolen car. After his arraignment, the court released Batke on a \$50,000 bond. Two weeks later, police arrested Batke again for threatening his ex-girlfriend.

Batke then pleaded guilty to a laundry list of violent crimes, including felonious assault, domestic violence, violating a protective order, disrupting a public service, felonious assault on a police officer, failure to comply with police, grand theft of a car, inducing panic, and intimidation of a crime victim. He is now serving 18 years in prison.

Conclusion

The traditional money bail scheme so prevalent in our criminal justice system is in dire need of reform. Cash bail is an inefficient, expensive, unfair means of protecting communities that has proven no guarantee to stopping repeat offenders. Indeed, an astounding 57 percent of those sitting in Ohio jails are not there serving a sentence.⁴⁸ State policymakers should reform the status quo by amending Ohio law to allow judges wider use of evidence-based risk-assessment tools to make better-informed pretrial detention and release decisions. Such tools give judges greater flexibility and resources to hold defendants accountable pending trial, and to deny pretrial release when there is clear evidence that the accused poses significant risks to the community. These actuarial tools inform judges of the particular risk an individual may pose considering his criminal history, the charged offense, prior missed court dates, and other relevant factors peculiar to the defendant. Thus, risk-assessment tools help judges to better exercise their discretion and increase accountability for defendants.

Cash bail alternatives, such as electronic monitoring, mandatory counseling, routine check-ins, or other appropriate restrictions, allow judges to hold defendants accountable while still permitting

⁴⁶ John Futtly, **Burglaries and Home Invasion Robbery Bring 26-Year-Sentence**, *The Columbus Dispatch*, June 22, 2017.

⁴⁷ Donna J. Miller, **Dale Batke Gets 18 years for Assaulting a Cop and His Girlfriend**, *Cleveland.com*, July 12, 2009.

⁴⁸ Bureau of Adult Detention, Department of Rehabilitation and Correction, 2016 Jail Sentenced Status Data, June 30, 2017, on file with author.

the accused to fulfill their work and family responsibilities. Pretrial detention reforms in Ohio, New Jersey, and San Francisco have already demonstrated safe alternatives to money bail, while allowing more defendants to remain free and enjoy their presumed innocence until proven guilty.

Ohio should address the demonstrated shortcomings of the cash bail system by expanding the judiciary's access to proven risk-assessment tools that can provide a fairer, more efficient way to keep our communities safe and secure.

About the Author



Daniel J. Dew is the legal fellow at The Buckeye Institute’s Legal Center. In this capacity, Dew focuses on legal policies that promote freedom and the public good.

An expert on criminal justice reform, Dew has worked on policies that increase Ohioans’ safety, makes the criminal justice system fairer, and saves taxpayer dollars. Dew was a leading voice in reforming Ohio’s civil asset forfeiture policies and worked closely with Ohio’s Criminal Justice Recodification Committee on developing proposals to reform the state’s criminal code.

Dew currently serves on the Ohio Justice Reinvestment Initiative Ad Hoc Committee, which brings together legislators, judges, prosecutors, prison officials, defense lawyers, and criminal justice experts to find ways Ohio can safely reduce its prison population.

Prior to his position at Buckeye, Dew was a visiting legal fellow at the Heritage Foundation’s Edwin Meese III Center for Legal and Judicial Studies and an associate attorney at Ford, Gold, Kooor & Simon. He also represented energy companies in contract negotiations.

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Acknowledgements

The author would like to thank James Kennedy, an intern in The Buckeye Institute’s fall internship program, for his excellent research assistance.



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“Money Bail”: Making Ohio a More Dangerous Place to Live

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