

OUR BELOVED COMMUNITY



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The Racial Impact of Cash Bail Bond Systems.

Nationwide, more than 65-70% of inmates in state (as opposed to federal) jails are being held in pre-trial detention, mostly because they cannot afford to pay the cash bail amount that would permit their release from jail pending trial.

The purpose of a cash bail bond (CBB) system is to ensure the accused appears for his next court date, and applies even in the case of non-violent or less serious, misdemeanor offenses. Defendants unable to pay the bail set remain in jail.

It is important to note that CBB is separate from decisions relating to pre-trial incarceration of persons deemed a threat to society because charged with more serious crimes. The driver alleged to have mowed down participants and spectators at the Waukesha Thanksgiving Day parade apparently had been deemed not a threat, despite the violent nature of his prior charged offense, and thus released, and at a bail amount of just \$1,000. That release decision arguably implicates casual prosecutorial views of domestic violence rather than the relatively low bail underlying it).

On average, Black people are incarcerated at the rate of more than 5 times as whites (in Wisconsin the ratio exceeds 9 to 1). The US incarcerates a greater percentage of its population than virtually any other nation, with the poor and communities of color disproportionately affected.

While some efforts have focused on legal reforms such as decriminalizing certain misdemeanor and non-violent offenses (e.g., relating to certain recreational drugs), other efforts have addressed the destabilizing effect of the CBB system. The effect of the CBB system is to criminalize poverty and uproot lives—even a brief period in jail may have calamitous and cascading harms in the form of missed work, and loss of job, housing, benefits, and family stability.

While Congress eliminated CBB in the federal criminal system years ago, states are only just beginning to do the same. Last year, Illinois enacted legislation (taking effect in 2023) to eliminate its CBB system, and New York California and Washington DC are working to reform theirs. What few studies exist show no link between elimination of CBB and effect—increase or decrease—results on crime rate.

One stark example of the trauma and harm caused by CBB is featured in *The Kalief Browder Story*, a documentary about the years a teenage spent in Rikers Island Prison in New York, accused of stealing a backpack and unable to make bail. (DVD available at the Mil. Pub. Library). He was ultimately released with no charges ever being filed. He subsequently committed suicide. See, www.sentencingproject.org.

Subsequently, New York City instituted a “supervised release” program where charged offenders awaiting trial meet periodically with social workers and participate in phone check-ins. The 88% court appearance compliance rate is comparable with that under CBB systems. See., <https://www.brennancenter.org/our-work/research-reports/how-cash-bail-works>.