**EXPRESSING CONCERN REGARDING THE NEED FOR BAIL REFORM**

**2020**

***WHEREAS***, money bail, sometimes called cash bail or a money bond, is a system of pretrial release in which a monetary amount is attached to the pretrial release of individuals who have been accused but not yet found guilty of a crime; and

***WHEREAS***, an individual must pay a fee if s/he fails to appear in court when the money bond is unsecured, but must pay a fee in order to be released from custody pretrial if the money bond is secured; and

***WHEREAS***, if a secured bond is obtained through a commercial bonding company, the fee is non-refundable, even if the person’s case is dropped or they are found not guilty; and

***WHEREAS***, 62% of the individuals incarcerated in local jails across America are pretrial inmates, meaning that they have not been convicted of the alleged crime that led to their confinement and are merely awaiting some sort of court proceeding or trail. Three-fourths of these individuals are accused of property, drug or other nonviolent offenses. In all, pretrial inmates accounted for 95% of the growth in the jail population over the last twenty years[[1]](#endnote-1); and

***WHEREAS***, 90% of the individuals who are incarcerated pretrial are not confined because they were denied bail due to being a flight risk or a danger to the public, Instead, the most common reason why an individual remains incarcerated pretrial is simply because he or she could not muster the financial resources needed to secure his or her freedom[[2]](#endnote-2); and

***WHEREAS,*** recent court decisions have ruled that the incarceration of individuals who cannot afford money bail without meaningful consideration of other alternatives is a violation of due process and equal protection; and

***WHEREAS***, research has shown that individuals who are incarcerated pretrial are more likely to plead guilty, be convicted of a felony, receive longer sentences, get less attractive plea bargain offers, and become “reentry” clients as a result of their pretrial detention, regardless of charge or criminal history[[3]](#endnote-3); and

***WHEREAS***, pretrial incarceration has profound effects on both the individuals who are incarcerated, their families and the taxpayers. On the individual level, the loss of freedom during pretrial incarceration can result in the loss of employment, housing and child custody. On the societal level, the cost to taxpayers is astounding. Nationally, the total annual cost to state and local governments for pretrial incarceration is estimated to be $14 billion, or 17% of total spending on corrections[[4]](#endnote-4); and

***WHEREAS***, race and gender influence whether defendants are released on recognizance and the amount of money bail set, which has long-lasting consequences throughout the justice system; and

***WHEREAS,*** in 2002, black defendants made up 43% of the pretrial inmate population despite constituting only 13% of the total population[[5]](#endnote-5); and

***WHEREAS***, non-modified evidence based risk assessment of a defendant’s likelihood to appear in court and remain arrest-free while awaiting trial can increase successful pretrial release outcomes and diminish racial disparities without imposing unnecessary financial conditions, impairing the judicial process, or jeopardizing public safety; and

***WHEREAS***, the National Association of Black County Officials, the National Association of Counties, the American Bar Association, the National District Attorneys Association, and others have condemned the money bail system as a system that discriminates against the poor[[6]](#endnote-6); and

***WHEREAS***, the International Association of Chiefs of Police has recognized the critical need for bail reform and in particular the urgent need for more robust pretrial services that conduct validated risk assessments for use by the judiciary when considering pretrial release[[7]](#endnote-7); and now

***THEREFORE, BE IT RESOLVED*** that the American Correctional Association (ACA) does hereby strongly oppose racial, gender, and the social-economic disparities in the criminal justice system and specifically encourages comprehensive reforms in the pretrial process to ensure the fair and equal treatment of all citizens regardless of race, gender, sexual orientation, color, creed, national origin, religion, or socio-economic status.

***THERFORE, BE IT FURTHER RESOLVED*** that the American Correctional Association (ACA) believes in judicial discretion and for crimes that do not place the public in danger or demean the seriousness of the offense, the judiciary should have other pretrial options in addition to cash bond.

***THERFORE, BE IT FURTHER RESOLVED*** that the American Correctional Association (ACA) strongly supports that federal, state and local jurisdictions consider adopting the principles in this resolution regarding current and future legislative changes.

***THERFORE, BE IT FURTHER RESOLVED*** that a copy of this resolution be forwarded to all elected officials at the federal, state and local levels of government.

This resolution was unanimously ratified by the American Correctional Association Resolution and Policy Committee at the Winter Conference in San Diego, California in January 2020.

1. Bureau of Justice Statistics, Jail Inmates at Midyear 2014 (June 2015). [https://www](http://www.bjs.govlcontent/publpdfljim14.pdf).bjs.[govlcontent/publpdfljim14.pdf](http://www.bjs.govlcontent/publpdfljim14.pdf) ; Stevenson, Mega,n and Mayson, Sandra G., *Bail Reform: New Directions for Pretrial Detention and Release* (2017). *Faculty Scholarship.* 1745. [http://scholarship](http://scholarship/) .law.upenn.edulfaculty scholarshipl 1745 (Last visited September 5 , 2018) . [↑](#endnote-ref-1)
2. Reaves, Brian A., U.S. Dep't of Justice, Felony Defendants in Large Urban Counties , 2009 , at 15 (2013). [↑](#endnote-ref-2)
3. Lowenkamp, Christopher T., et al., *Investigating the Impact of Pretrial Detention on Sentencing Outcomes* (2013); Phillips, Mary T., N.Y. City Criminal Justice Agency, *A Decade of Bail Research in New York City,* 115-17 (2012) . [↑](#endnote-ref-3)
4. Pretrial Justice: How Much does it cost?, 2 (Pretrial Justice Inst. 2017); Melissa S. Kearney et al., *Ten Economic Facts about Crime and Incarceration in the United States,* THE HAMILTON PROJECT 13 (May 2014). [↑](#endnote-ref-4)
5. Minton, Todd D. & Zeng, Zhen, Bureau of Justice Statistics, Jail Inmates at Midyear 2014, at supra note 11, at 2(2015). [↑](#endnote-ref-5)
6. Bauer, Shane, Inside the Wild, Shadowy , and Highly Lucrative Cash Bail Industry, Mother Jones , (May 2014), available at http :l [www.motherjones.com1](http://www.motherjones.com1/) politicsl20141061bail-bond-prison-industrv (Last visited September 5, 2018) . [↑](#endnote-ref-6)
7. Research Advisory Committee Resolution 005.T14. (Alexandria , VA: International Association of Chiefs of Police, 2014). [↑](#endnote-ref-7)