

FREQUENTLY ASKED QUESTIONS ABOUT BAIL



Credits

Logo and graphics: Jack E. Goodman

Written by: Community members of the
SLC Bail Fund

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The SLC Bail Fund is a fiscally sponsored project of the Blue Sky Institute (blueskyinstitute.org) and is a subgroup of Decarcerate Utah (decarcerateutah.org).

Introduction

The Salt Lake Community Bail Fund is operated by Decarcerate Utah - a prison abolitionist organization that seeks to dismantle the prison industrial complex and end the harm it perpetuates. The SLC Bail Fund works against the unjust cash bail system that criminalizes poverty and disproportionately harms communities of color. We post bail for individuals in need in Salt Lake County - helping to free our neighbors, educate the public, and work towards dismantling harmful systems. We are committed to ending pre-trial detention in Utah using the SLC Bail Fund as a mechanism to expose harm caused by cash bail.

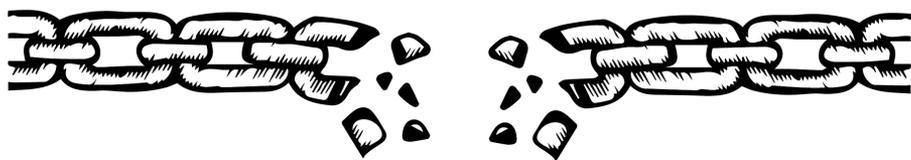
What is bail and how does it work?

While defendants are legally presumed innocent before trial, judges can hold a defendant in jail ahead of their court date on bail. According to the American Bar Association:

Bail is the amount of money defendants must post to be released from custody until their trial. Bail is not a fine. It is not supposed to be used as punishment. The purpose of bail is simply to ensure that defendants will appear for trial and all pretrial hearings for which they must be present. Bail is returned to defendants when their trial is over, in some states minus a processing fee.

Judges have an enormous amount of discretion in setting bail as a collateral for the defendant's appearance in court. Bail functions as a kind of ransom, and only those with financial means can pay for their freedom. Many cannot afford to pay their bail and can spend weeks, months, or even longer in jail before they are tried in court. Despite the fact that these defendants are presumed innocent, they are treated punitively.

Bail is not meant to be issued as a public safety measure. However, in practice, judges routinely set high bail amounts for defendants under the guise of public safety, knowing that these high bail amounts are often impossible for defendants to pay. If a defendant is released and commits a new crime, this is misguidedly understood to be a fault of the judge. Judges regularly detain people to protect their reputation, which is a flagrant misuse of an already inequitable system.



Is bail effective?

No. Bail is not an effective way to ensure defendants appear at court. Studies show that it is costly, harmful, and unnecessary. The largest study on court appearances, conducted by the Bureau of Justice Statistics, shows that more than 75% of defendants released before their trial attended all of their court dates, and of those who miss a court appearance, 94% appear within a year.

Defendants rarely intentionally flee their court dates. Much more often, people miss court because of personal issues like work, school, and family obligations, and resource issues like lack of transportation, and court dates can change at the last minute with little notice. Many studies have shown that defendants miss court dates at about the rate that people miss medical appointments. The stakes, however, are much higher for those who cannot make a court date, and the court system makes no distinction between deliberately fleeing court and an unintentional or unavoidable absence.

What about people accused of violent crimes?

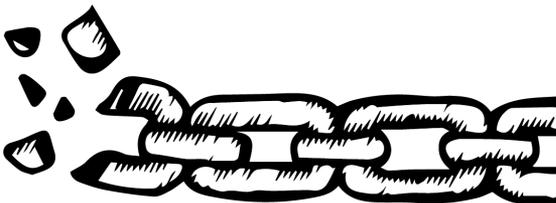
Bail is not a fair or effective way to prevent crime, and releasing people before trial does not put the public at risk. Issues of public safety, of preventing harm, and of healing after violence has been committed are complex issues that the bail system is not able to address.

Our current carceral systems do not prevent crime—they only respond to it, and often cause more harm when they do. In fact, policing and jail are both very violent systems in themselves. Utah detention centers are known to be particularly deadly, with the highest death rate per capita in the country.

Policing is likewise deadly. More than 1,000 people are killed by police each year in the United States, and rates of conviction for these killings are extremely low. In 98% of cases between 2013–2020, no police were convicted for those killings. Police also commit sexual violence at twice the rate of the general population.

The current criminal justice system does almost nothing to reduce physical or sexual violence in our communities. For example, 75% of sexual assaults are not reported and, of the cases that are reported, only 0.5% of these cases will lead to conviction and incarceration. Even if this system was more effective at jailing perpetrators of sexual violence, it would still be inadequate at supporting survivors and preventing further violence.

A better way of preventing violence is to examine and address the root causes of violence, and provide resources for those who need them, a topic explored in our section on community safety. Incarceration serves only to remove a person from society and does not rehabilitate them or address the systemic factors which often lead to harmful actions.



Is bail a big deal?

How many people does this affect?

The vast majority of people incarcerated (74%) in city and county jails around the country are held before their trial. Nationwide, this accounts for almost half a million people.

The local statistics are equally staggering. According to recent data from the Salt Lake County Jail Dashboard, in Salt Lake County alone, 1,180 people are incarcerated before their trial—that's 75% of people held in Salt Lake County jails (Data retrieved 5/27/2021). These people have been held for an average 169 days, more than 5 months, and some have been incarcerated much longer. Being held in jail for this length of time, or for any length of time, can have severe impacts on a person's life.

How does bail impact our community members?

Pretrial detention harms our communities. Spending time in jail can threaten a person's well-being and their livelihood. Not only is jail a hazard to physical and mental health, being detained can put a person's job, education, housing status, and the custody of their children at risk. Families suffer too. Having a primary caregiver or provider in jail can be devastating for dependents and partners. When people are allowed to await trial outside of jail, they have greater access to legal assistance, they can maintain relationships with family and community, and can continue earning wages—all of which are threatened by pretrial incarceration.

Being detained before trial also negatively impacts the outcomes of the defendant's trial. Time in jail prior to trial has been found to increase the chance of conviction and to increase sentence lengths. Defendants also often accept plea deals that are not in their best interest in order to get out of jail. The negative impacts of pretrial incarceration are wide and can be long lasting.

The money bail system also disproportionately harms BIPOC communities. Not only are people of color jailed at higher rates, they are also less likely to be released before trial than white defendants. Further, research shows that Black people, when assigned monetary bail, receive significantly higher bail amounts than White people.

People of color are jailed at exponentially higher rates locally too. According to 2019 U.S. Census data and data pulled from Salt Lake County Jail Dashboard, (retrieved 5/27/21),

- Black people make up 2.2% of Salt Lake County's population, but 11% of the county's jail population.
- Hispanic* people make up 18.8% of the county population, but 30% of the jail population.
- Native American* people make up 1.4% of the county population, but 3% of the jail population.
- People of Asian descent make up 4.6% of the county population, but 7% of the jail population.

These statistics make it clear that racial and ethnic minority populations in Salt Lake County are extremely overrepresented in county jails, demonstrating that they are targeted by police and are most at risk for the many negative impacts of incarceration.

* These terms are what the jail and the U.S. Census use and are used here for clarity. We recognize that they may not reflect how people of these racial and ethnic backgrounds self-identify.

What about bail bond companies?

Those who cannot afford to pay bail are often forced to go through bail bond companies, which retain the bail when it is returned by the court, charge 10% of the bail amount in fees, and often require additional collateral such as the individual's home or car. In cases when people cannot afford 10% of their bail cost, bail bond companies can charge exorbitant interest rates for their loans. This often leads to people still having to pay off their bail debt even after their original charges are dropped or resolved.

The bail bond industry is predatory and exploitative. It is a multi-billion dollar industry that directly benefits from the inequities and discrimination of the criminal legal system. Despite their profit-driven motives, bail bond companies have enormous power in influencing pretrial policy. Locally, bail bond companies are given a seat at the table in discussing bail legislation through the Utah Pretrial Release and Supervision Committee.

How do we make our communities safe?

We know that incarcerating people does not keep our communities safe. Locking people away in jail and prison does not hold them accountable—it is only a punishment and it does not repair the harm that was caused. Incarceration further perpetuates systems of violence, without addressing the underlying causes of that violence.

True safety comes when communities have enough resources and when all our community members can live with dignity. We can promote community safety by demanding that our governments (local and federal) redistribute funding from systems that seek to punish (like police and all forms of detention facilities) and invest in housing, healthcare, mental health services, and other vital supportive resources for the community.

Moving toward community safety will mean reckoning with the ongoing realities of harm and violence, not simply alienating those who have perpetuated harm. We must learn new ways of holding others accountable, repairing harm, and healing. We must learn to stop the cycle of harm in its tracks.

The Salt Lake Community Bail Fund is fighting for a system in which people are treated with dignity regardless of their income, their race, ethnicity, gender, sexuality, or whether they have been targets of the carceral system. We pay bail to those who need it in order to reduce the harm of our current systems while we organize for larger change. In Utah, we have begun the fight to end pretrial detention and money bail altogether. It will be a long fight and in the meantime we will work toward building solidarity in our communities. Everyone deserves to be free.



How does the Salt Lake Community Bail Fund work?

The Salt Lake Community Bail Fund (SLCBF) redistributes community donations to help free our neighbors from pretrial incarceration. The SLCBF will consider all community requests as long as funds are available. We prioritize paying bail for people of color, who are most targeted by the criminal legal system, and we consider many other factors including length of time a person has been incarcerated, other marginalized identities a person holds, and medical vulnerabilities.

There is no expectation or obligation that those who receive funds for bail pay us back. The SLCBF is a revolving fund, meaning that we make every effort to recuperate the bail money posted from the courts when cases are resolved, so that we can keep posting bail for new requests. We are 100% volunteer-run and all donations are tax-deductible.



How can I get involved?

Donations are vital to bringing our incarcerated community members home. Make a tax-deductible donation online or mail us a check to PO Box 3381 - Salt Lake City, UT 84110.

If you have time or skills to dedicate to SLCBF, send us an email and tell us a little about yourself!

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