

THE TRUTH ABOUT BAIL REFORM

JESSE KLEIS





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THE TRUTH ABOUT BAIL REFORM: THE COMPLETE EBOOK

When most people think about the criminal justice system in the United States, the first thing that comes to mind is bail reform. The idea of innocent people being jailed while awaiting trial simply because they can't afford to post bail is thought of as a clear injustice, and it's something that has been gaining traction in recent years as public opinion has shifted against for-profit bail systems. However, there are many sides to this complex issue, and blaming one part of the system is not the best solution for such an intricate issue.

Some argue that the current system unfairly punishes poorer defendants and that reform is necessary to ensure that everyone has a fair chance in court. Others claim that the current system works just fine and that changing it would only create more problems. There are also questions about how much money should be invested in reforming the bail system and what methods should be used to determine who gets released and who stays in jail.

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So, what is the truth about bail reform? Is it necessary to change the bail structure, or is there more to the problem? In this ebook, we'll cover the truth about bail reform, its history, and actual changes that can be made to fix the pressing issues facing our justice system.



THE HISTORY BEHIND BAIL IN THE UNITED STATES

Before jumping into bail reform, it's essential to understand the history behind the idea of bail and how it's been used as a crucial part of our judicial system as well as a part of many other societies long before the United States had even been formed.

The concept of bail has a long and complicated history. The idea of bail originated in England more than 1,000 years ago and was adopted into practice in the United States after it gained its independence.

The idea of bail came about when England realized that defendants might try to leave the country or move to a different city if they were released before trial. By creating the bail system, England was to create a system where the defendant could still be released from jail and be trusted to come back and show up for this trial.

To do this, England would require family members or friends to pay for the defendants' crimes if they decided to flee from their trial. This way, there was a financial incentive for the defendant to show up for their trial. Implementing a bail

system became a success in England because it helped reduce the number of people who skipped their court dates.

■ THE FIRST UNITED STATES BAIL LAW OF 1789

The first law surrounding bail wasn't actually established until 1789 with the Judiciary Act of 1789. Previously states had already been practicing the idea of bail, allowing those who were arrested to leave before a trial in exchange for goods or a promised payment from a friend or family member. However, there was no official direction from the government or a law that governed what could be accepted as bail and how it should be processed. This created a lot of inconsistency in how different cases were handled.

The Judiciary Act of 1789 helped establish some official guidelines for how bail should be handled in the United States. The act allowed people to be released prior to a trial as long as they agreed to pay bail and show up to their court date. The only exceptions to this rule would include serious cases, such as murder, which was not eligible to receive a release on bail.

The idea of bail seemed great. However, it didn't always work as planned. Unfortunately, without any rules or ways to govern bail, many criminals had the opportunity to take advantage of the system and flee in order to avoid facing the consequences of their actions. Plus, some were still stuck in jail when they couldn't pay for bail, which is why the first bail bonds company was created.

■ THE CREATION OF BAIL BOND COMPANIES IN 1898

More than a 100 years after the initial law surrounding bail was passed, the first bail bond company was created in 1898 in San Francisco, California. Previously, defendants had to either have a family member pay for their bail or come up

with the money for bail by themselves. Since there was no rule on bail limits, this quickly became unaffordable for many working-class Americans who couldn't come up with the full bail amounts.

This is where the first bail bond company came in to fill the void. The company offered to pay for a defendant's bail in exchange for a small fee and some collateral, such as a deed to a house. This allowed many people to get out of jail while waiting for their trial without coming up with the entire amount of money for bail.

The company was a success, with many people using these services when they couldn't afford bail by themselves. Once the rest of the country realized how helpful bail bond companies could be, they quickly started popping up throughout the United States.

■ BAIL REFORM ACT OF 1966

While bail bond companies did help make bail more affordable for some people, it didn't mean that everyone could still afford the fee required to use those types of services. In order to help address this issue, the Bail Reform Act was passed in 1966 with the idea that you should only be required to stay in jail if there was enough evidence that you might be guilty.

Initially, if you couldn't pay for bail, you would need to stay in jail until your court date since there was no way to guarantee that you wouldn't flee before your trial. However, this new law completely eliminated the idea of holding someone in jail until they could pay bail. Instead, when someone is accused of a crime, they would be processed through the system and released freely with the idea that they would show up for their court date.

The exception to this rule was if enough evidence proved that the criminal might try to flee before the trial. Unfortunately, however, there was typically not enough

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proof to hold someone in jail, and as you may have guessed, this resulted in a dramatic increase in the number of people who fled before their court case, causing a ton of court cases to never be solved.



INTRODUCING THE COMPREHENSIVE CRIME CONTROL ACT OF 1984

Allowing potential criminals to leave jail without any way to guarantee they would come back didn't work as expected. In fact, it made the problem even worse. So, in order to help address this, the Comprehensive Crime Control Act was passed in 1984.

This act put into place a few different things that helped to increase the likelihood that people would return for their court dates while still ensuring that they wouldn't have to stay in jail if they couldn't afford bail. It created a set of guidelines that courts would follow when someone was accused of a crime, which made it easier for defendants to get out of jail and ensure that an outrageous amount of money wasn't being set for bail.

Courts would instead consider a few different factors before the bail was set to make sure that it was affordable for the defendant while also ensuring that the public was protected from criminals who were actually dangerous. These factors included:

- **The severity of the crime:** One of the most important factors that a court would consider when setting bail is the severity of the crime that the

defendant is accused of. If it's a more serious crime, then it's likely that the bail will be set higher since there's a greater chance that the defendant might try to flee.

- **Relationship to the community:** Courts would also examine the defendant's relationship to the community to see if they were more likely to flee. For example, if the defendant had family in the area, it would be less likely that they would try to flee since they would have more of a support system.
- **Employment history:** Another factor that courts would look at is whether or not the defendant has a steady employment history. If they did, they would be less likely to try to leave since they would have stability in their life.
- **Criminal record:** Finally, courts would also look at the defendant's criminal record to see if they had a history of fleeing or not showing up for court dates. If they did, it would be more likely that bail would be set higher since there's a greater chance that they would try to flee again.



THE CURRENT BAIL SYSTEM IN THE UNITED STATES

The bail system in the United States has changed significantly over the years. In the beginning, there was no bail, and people accused of crimes would have to stay in jail until their court date. With the introduction of bail, people could pay a certain amount of money to be released from jail until their court date.

Today, under federal law, every state must create a pretrial release system by judges who consider many factors when deciding how much bail should cost, including flight risk, criminal history, and public safety. In addition, since people accused of crimes aren't always deemed trustworthy enough to walk around freely without supervision, defendants might also be ordered by the judge to be put on pretrial supervision.

This decreases the chance of flight risk and helps to ensure that the defendant is following any other court-ordered rules, such as not having contact with the victim or not leaving the state. If the defendant is deemed to be a flight risk or a danger to the community, they might be denied bail altogether and have to stay in jail until their court date.



WHAT IS BAIL REFORM?

Bail reform is the process of changing the current bail system in order to make it more fair and just. Many argue that the current system is unfair because it disproportionately affects low-income defendants who can't afford to pay bail. This often leads to defendants staying in jail until their court date, even if innocent, because they can't afford to pay bail.

Bail reform advocates argue that this isn't fair and want to see changes made to the system. There are a few different ways this can be done, but one of the most common ways that many are pushing for bail reform is by eliminating bail altogether.

This means that people accused of crimes would no longer have to pay any money in order to be released from jail before their court date. Instead, they would be released on their own recognizance, which is when a person agrees to show up for their court date without having to pay any money.



DOWNSIDERS OF BAIL REFORM

While the idea of bail reform might seem reasonable in theory, there are some drawbacks that come with it. This includes:

■ MORE CRIMINALS RELEASED FROM JAIL

One of the most significant risks of bail reform would be the potential for more criminals to be released from jail before their court date.

This is because, under the current system, bail acts as a filter that keeps dangerous criminals in jail while allowing low-risk offenders to be released. If bail was eliminated, this filter would no longer be in place, and more dangerous criminals would have the opportunity to be released from jail before their court date.

While this might not seem like a big deal, it could lead to increased crime. Studies have shown that the majority of crimes are committed by a small group of offenders, and if these offenders are given the opportunity to be released from jail before their court date, they will likely re-offend.

INCREASE IN NUMBER OF NO-SHOWS FOR COURT CASES

Bail acts as an insurance policy for the courts. By requiring people to pay bail, the court essentially ensures that the defendant will show up for their court date.

If bail was eliminated, there would be no financial incentive for defendants to show up for their court dates, and the number of people who didn't show up would likely increase. This would clog up the court system even more than it already is and would make it even harder for cases to be heard in a timely manner.

What's more, eliminating bail would also mean that there would be no way to enforce any sort of conditions that the court might want to place on the defendant, such as not having contact with the victim or not leaving the state. This could lead to more victims being harmed and more criminals absconding from justice altogether.

Additionally, the idea of eliminating bail has already been tried in a few places, and it has yet to have the desired effect. For example, when the Bail Reform Act Of 1966 was passed, it eliminated bail unless evidence was provided that the person was guilty. However, evidence was hard to find, and this led to an increase in the number of people who didn't show up for their court dates, which led to re-establishing the bail system once again.

INCREASE IN NUMBER OF CRIMES COMMITTED WHILE OUT ON BAIL

Another potential problem with eliminating bail is that it could increase the number of crimes committed while defendants are out on bail.

Currently, when a defendant is released on bail, they are typically required to check in with a pretrial services officer and follow any conditions that the court has set for them. If they fail to do this, they can be arrested and jailed until their court date.

However, if bail was eliminated, there would be no incentive for defendants to check in with pretrial services or follow the conditions set by the court. This could lead to more defendants committing crimes while out on bail, ultimately defeating the purpose of eliminating bail in the first place.

MORE PRESSURE ON PRETRIAL SUPERVISION PROGRAMS

Without bail, there would likely be an increased demand for pretrial supervision programs. These programs are designed to provide support and structure for defendants who have been released on bail, and they typically include things like drug testing, GPS monitoring, and home visits.

While pretrial supervision programs can be effective, they are also expensive, and most jurisdictions don't have the resources to provide them for everyone who needs them. This could lead to more defendants being released without any supervision whatsoever, which would ultimately defeat the purpose of eliminating bail.

INCREASE IN POLICE WORKLOAD

Lastly, with more people being released from jail without bail, there would likely be an increased workload for police officers. As more criminals are released without bail, there will likely be an increase in the number of crimes committed. This would

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put a strain on police resources and could ultimately lead to less serious crimes being investigated.

Plus, when more police resources are required, this can also increase the taxes that citizens have to pay. In other words, eliminating bail could cost taxpayers more money in the long run.



THE REAL REFORM NEEDED: CRIMINAL JUSTICE COURT REFORM

Bail reform is often highlighted as a potential solution to the problems with the criminal justice system. However, while bail reform is often blamed as the root of the issue with the criminal justice system, the reality is that it is just a symptom of a much larger problem.

The real issue lies in the way that our criminal justice court system is structured. By getting to the root of the problem, everyone in society would benefit, including defendants, taxpayers, and victims. Let's take a look at some of the common issues with the current criminal justice court system that makes the system more expensive and less effective.

ATTORNEYS ARE ABUSING THE RIGHT TO A SPEEDY TRIAL

Did you know that 97% of federal cases and 94% of state cases do not go to trial? Capital cases can drag through the court systems for years without having

a resolution, and the reason for this is that attorneys abuse the “right to a speedy trial” in our legal system.

Almost all criminal defense attorneys and public defenders use a strategy to delay cases to reach a more favorable sentence for their clients. First, when the defendant goes to arraignment, everyone will plead that they’re not guilty. Then the attorneys just ask for continuance after continuance. Unfortunately, this means that cases can take years to resolve, putting a higher strain on an already overburdened court system.

Additionally, this also means that defendants have to wait much longer for their day in court. In some cases, defendants will end up serving more time in jail waiting for their trial than they would if they were just convicted and sentenced.

■ OVERBURDENED PUBLIC DEFENSE SYSTEM

When someone is charged with a crime, they have a constitutional right to a government-funded lawyer. A recent study found that four out of five people rely on public defenders or court-appointed lawyers to handle their cases. However, there is no system that uniformly provides these lawyers to those in jails, which means that public defenders are often overwhelmed and underprepared for court.

They might have 100 cases on their desk that day and only a few minutes to look at the case files. Unfortunately, this means that these defenders don’t actually have the time to prepare a proper defense for their clients. Plus, with so many cases happening at once, they may need help to physically attend everyone’s court dates, especially if they’re scheduled for the same date and same time but in different courtrooms in different cities.

This issue can also occur in the private sector, where many attorneys take on too many cases and end up not being able to devote the proper time and resources

to each client. With no possible way to provide each case with the care and time it actually needs, attorneys will often send an associate in their place in order to ask for a continuance since the retained attorney on file can't make it.

This further bogs down the court system, as well as creates unfairness to the defendant. If they can't even get their own attorney in court, how are they supposed to have a fair chance? What could have been a simple court case has now become a circus that's taking up valuable court time and resources.

■ BACKLOG OF COURT CASES

As public defenders continue these practices, the court system becomes increasingly backlogged. This puts an even higher strain on the system as a whole, making it difficult for cases to move forward in a timely manner.

The court system is already overburdened and underfunded, so when you add in a backlog of cases, it only makes things worse. This can lead to even more delays, continuances, and a general feeling of frustration among everyone involved in the system, especially since court dates are spaced out a month or more apart. In some cases, these dates may be scheduled several months apart, so when one of these attorneys asks for a continuance, the defendant will have to wait anywhere from 3-6 more months to speak with a judge.

■ CONTINUATION OF COURT CASES UNTIL A GOOD DEAL ARRIVES

Eventually, pushing the case for too long will result in the judges scheduling a pre trial settlement hearing, which is typically where the deals start being offered. Attorneys will continue pushing this process out for months or even years to get

the best deals for their clients. Since you're not guaranteed to work with the same prosecutor each time, you'll likely receive different offers during each pretrial settlement hearing.

Eventually, the client and attorney will come across a more liberal-leaning prosecutor that offers them a no-jail time deal, often involving probation and community service, and they'll settle on that. If no agreement is reached or the client is unhappy with the deals offered, going to trial is the only other option.

■ OVERWHELMING TRIAL COSTS

The costs associated with going to trial are also incredibly high. If you can't afford a private attorney, the public defender will be your only option, and they likely won't have the time or resources to represent you properly.

This can cost anywhere from \$10,000-\$15,000 or more, depending on the specific charges. These costs are on top of the thousands that may have already been shelled out for an initial retainer and months or years of additional legal fees to file motions and court appearances. These costs can be extremely burdensome, especially for low-income defendants, making it hard to even consider going to trial.

Additionally, if you go to trial and lose, you may be on the hook for even more costs, including restitution, court fines, and probation fees. You may also end up having to serve time in jail or prison, which can lead to even more debt and hardships.



THE POTENTIAL BENEFITS OF COURT REFORM

If the court system was reformed, we would see an increase in many areas, including:

■ INCREASE IN THE NUMBER OF CASES RESOLVED

First, we would see an increase in the number of cases that are actually resolved. This would free up court time and resources to focus on more serious cases, as well as help to reduce the backlog of cases.

Keep in mind the longer these cases go on, the more difficult it becomes for prosecutors to win cases. For example, witnesses may move away, not update their contact information, and arrested officers may have retired or have been transferred to other agencies. In that case, these people are simply not around to testify should a case go to trial, making it challenging to prove guilt beyond a reasonable doubt.

■ REDUCE THE NUMBER OF DEFENDANTS IN JAILS

Many defendants are stuck in county jails waiting years for trials as they may not have an option to post bail for many reasons, such as:

- **Probation Holds:** A probation hold is a court order requiring a person to remain in jail until their probation officer approves their release. This can be for a variety of reasons, such as failing to appear for a meeting or not following the conditions of probation. Probation holds can also be issued if the probation officer believes that the person is a flight risk or poses a danger to the community. In some cases, a probation hold may be issued without the person even knowing it, which can extend their stay in jail indefinitely.
- **Parole Holds:** A parole hold is a detainer placed on a person who is currently on parole. This means that they are not allowed to leave the state or country, and if they do, they can be arrested and brought back to the state or country where they are on parole. The purpose of a parole hold is to make sure that the person does not commit any crimes while on parole and to make sure that they comply with the conditions of their parole. Parole holds can be placed on people who are suspected of committing a crime or who have violated the conditions of their parole.
- **Out-of-state Warrant Holds:** Out-of-state warrant holds are powerful tools that law enforcement can use to extradite fugitives from one state to another. In order for a hold to be placed, the arresting agency must first obtain a warrant from a judge in the state where the fugitive is currently located. Once the warrant is in hand, the agency can then request that the criminal be held in custody by law enforcement in the state where they are currently located. If the fugitive is arrested on the outstanding warrant, they will be held in custody until they can be transported to the state

where the warrant was issued. Typically, judges will order them to remain in custody until their extradition hearing.

- **Immigration Holds:** Immigration holds are placed when individuals are being processed for removal from the United States. During this time, they may be detained by U.S. Immigration and Customs Enforcement (ICE) or other law enforcement agencies. Immigration holds can also be placed on individuals who have been ordered to be removed from the country but are awaiting transportation to do so. In some cases, individuals may be released on their own recognizance or on bond while their removal is being processed. However, they may also be held in detention centers until their removal can be carried out.
- And more!

However, just because these holds were placed doesn't mean that these defendants are necessarily guilty. By freeing up more court time, we can reduce the number of defendants who are stuck in jail waiting for their day in court, resulting in more innocent people being released and able to return to their lives.

■ REDUCE OVERCROWDING IN JAILS

Fixing these issues would also help to reduce overcrowding in jails, which is a significant problem across the country. In some cases, defendants are released early because there is simply no more room in the jail. This can lead to dangerous criminals being released back into the community, which puts everyone at risk.

It can also lead to defendants who are awaiting trial being released on their own recognizance or on bond, which can result in them not showing up for their court date. This creates a burden on the court system and can result in innocent people being convicted of crimes they did not commit. In addition, overcrowding in jails

can lead to dangerous and unsanitary conditions for both inmates and jail staff. This can lead to riots and other violent incidents, as well as the spread of disease.

By reducing the number of defendants who are awaiting trial in jail, we can help to reduce overcrowding and make the jails safer for everyone involved.

■ **PROMOTE A MORE FAIR AND JUST SYSTEM**

Lastly, by freeing up more court time, we can promote a more fair and just system. This would help to ensure that defendants who are innocent have their day in court and that guilty defendants are brought to justice.

It would also help to ensure that victims of crime have their voices heard and that they receive the justice they deserve. In some cases, victims are forced to wait years for their day in court, which can be incredibly frustrating and traumatizing.

By reducing the number of defendants awaiting trial, we can help promote a more fair and just system that is more responsive to the needs of victims.



IS BAIL REFORM NECESSARY?

After diving into court procedures and the problems that overcrowding causes, it is evident that there are better solutions than bail reform. Bail reform would do nothing to reduce the number of defendants who are awaiting trial in jail, and it would actually create more problems than it would solve.

Bail serves a clear purpose: to ensure that defendants appear for their court dates. Without bail, there would be no incentive for defendants to show up for their court dates, and the court system would grind to a halt. In addition, without bail, there is a greater risk that dangerous criminals will be released back into the community.

The best way to reduce the number of defendants awaiting trial in jail is to free up more court time and reform the way the criminal justice system works. This would help to ensure that defendants who are innocent have their day in court sooner and that guilty defendants are brought to justice.

In addition, by reducing the number of defendants awaiting trial in jail, we can help reduce overcrowding and make the jails safer for everyone involved. So, while bail reform may seem like an easy solution, it is clear that it is not the answer to the problems facing the criminal justice system today.



WRAPPING IT UP

While bail reform may seem like the easy solution to the problems facing the criminal justice system, it is clear that it is not the answer. Instead, the best way to reduce the number of defendants awaiting trial in jail is to free up more court time and reform the way the criminal justice system works.

For more information about bail or the services available to you or your loved ones, contact your local bail bond agents at Mr. Nice Guy Bail Bonds today. We are here to help you navigate the criminal justice system and ensure you receive the best possible outcome for your case.

ABOUT THE AUTHOR:

JESSE KLEIS



Jesse Kleis has always been a natural-born entrepreneur and risk-taker. So when he saw an opportunity to serve the community as a bail bondsman, he jumped on it – and his formal education in sociology gave him a distinctive edge to stand above the competition in the bail bond industry.

In 2015, Jesse founded Mr. Nice Guy Bail Bonds, which has quickly become one of the country's most successful bail bond businesses. He attributes this success to the company's adaptability, hard work, grit – and, most importantly, its dedication to putting people first. Plus, with the knowledge and know-how of cutting-edge SEO principles, he's been able to ensure that Mr. Nice Guy Bail Bonds is constantly popping up first when people search for bail bonds in their area.

Jesse is a firm believer in giving back, and he regularly donates his time and resources to helping others, which has significantly contributed to his success. Alongside his role in the bail bonds industry, he continues to hold a formal

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role in professional education as a college-level instructor. With a dedication to growth and helping others, he invites all opportunities and fully intends to continue on his entrepreneurial journey. For more information, please visit www.MrNiceGuyBailBonds.com or call 1-844-400-BAIL with any questions.



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