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In recent years, a powerful movement of progressives and libertarians has succeeded in changing the laws that govern how judges deal with pre-trial detention of suspects. A few years ago, around two-thirds of those held in jail were merely suspects awaiting trial (Digard & Swavola, 2019). New Jersey, Philadelphia, Illinois, NYC, and Harris County, TX have implemented the progressive-supported reforms, largely eliminating cash bail, where a suspect is held in jail pretrial unless they post a sum of money. In the absence of cash bail, suspects are either released on personal recognizance or held in jail without the option of being released prior to trial, depending on their perceived threat and flight risks.

This trend appears to be consistent, conservative pushback notwithstanding. States and cities throughout the union are adopting policies that make cash bail rare, which allows many more defendants to be released onto the streets after being arrested for violent crimes. The increasing number of suspects who are not held in jail to await trial has a major impact on multiple parts of the criminal justice system. Police officers may resent that they now find themselves arresting the same suspects numerous times on the same shift due to the quick-release policies that don't allow judges to hold them in jail when suspected of serious crimes. The less restrictive bail system could also put officers and the public at greater risk due to serial offenders having more opportunities to commit additional crimes after being arrested. An increase in the number of crimes and arrests might necessitate hiring more police officers or paying more overtime, which the taxpayers would feel. Judges may resent that they have lost control over pre-trial detention decisions due to legislators tying their hands. Progressive prosecutors generally support the reforms, but those who disagree with the lawmakers who implemented the policies might take umbrage with them.

The calls for bail reform have come primarily from progressive Democrats who disagree with the high proportion of minorities being held in jail despite not having been convicted of any crime due to being poor. The current Democrat Party platform calls for ending cash bail (Democrats, 2020). Indeed, these disadvantaged suspects are suffering in jails for months or even years, being punished and pressured to plead guilty and take a deal, which would sometimes set them free on the spot. When Marvin Mayfield was arrested for fitting the description of a burglary suspect, he could not afford the \$10,000 bail, so he was incarcerated in Rikers Island for 11 months before having a trial. After nearly a year of unwarranted punishment in one of the most brutal jails in the world, he pled guilty so that he could be released. Mayfield said in an interview that he was told by prosecutors that if he pled guilty to the felony that he didn't commit, the judge would take into account his 11 months as "time served" and he would be released immediately (Selby, 2019). Although he knew that he didn't commit the burglary, he was desperate to be released from incarceration, so he pled guilty so that he could once again breathe fresh air as a free man. As a felon, Mayfield will never be able to vote or touch a firearm.

But other innocent inmates aren't so fortunate. Another black male, 16-year-old Kalief Browder, was locked up at Rikers Island because he couldn't afford bail. As reported by ABC News, Browder "served three years behind bars waiting for a trial after he was accused of stealing a backpack (Charlesworth, 2015). He said he was innocent, and the charges were dropped. But he was never able to get his life back, and on Saturday, the 22-year-old hanged himself in his Bronx home. "Most people think he served three years, he must have done something wrong . . . he didn't. He couldn't afford justice" said Glenn Martin, of Just Leadership USA. . . ."

The trend toward releasing suspects instead of detaining them before trial may have been fueled by all parts of the criminal justice system. Legislators crafted the criminal laws that empowered police officers to arrest a large number of people for many offenses. The same legislators in some cases empowered judges with discretion to impose cash bail on suspects. Police officers are the ones who actually made the arrests which led to the pretrial detention mentioned above. Prosecutors may have contributed to this issue by asking judges to keep defendants in jail for long periods before trial.

In states like New York, it seems like the pendulum has swung back toward holding some suspects in jail. In 2019, the state legislature passed a law abolishing cash bail for many crimes, including assault without serious injury, burglary, many drug offenses, and even some kinds of arson and robbery (McKinley et al, 2019). Breitbart reported that the law would set suspects free immediately after being arrested for various forms of homicide without being required to post any bail (Binder, 2019). Due to pushback from law enforcement, judges, prosecutors, conservatives, and other citizens, the state government has since been increasing the situations in which judges could set cash bail.

It may be impossible to determine how exactly the public is affected by bail reform. It may depend primarily on a person's perspective; which is generally a proxy for their political affiliation. If you ask a conservative, bail reform was a horrific mistake, because it releases dangerous people back onto the streets; it encourages swift recidivism and places everyone in severe danger (Binder, 2020). Progressives believe that bail reform is a long overdue idea and that it substantially diminishes racism, inequality, and pretrial punishment while also improving safety, strengthening families, and helping communities. On a more personal level, suspects are sure to be grateful to await trial in their homes and not a jail cell. But people who are harmed by

defendants who would have been held in jail prior to these reforms are likely to resent the new policy. When defendants are released pretrial, they are likely to feel relief from anxiety, and they are better able to prepare their legal defense. Some studies have found that being held in jail pretrial actually makes suspects *more* likely to commit future crimes (Sawyer & Widra, 2017). Other inmates serving time in jail are affected, most likely in positive ways. More inmates in a jail means less space for each person and more potential fights within the jail, which is bad for everyone (Brinkley-Rubinstein, 2013). Inmates may also learn from each other how to be more effective criminals. Taxpayers save money when they are forced to pay for the incarceration of fewer people. Families of suspects are able to spend more time with their loved ones when they are not in jail pretrial. But do these benefits of pretrial release outweigh the harms of potentially endangering the public? We may never know.

Postscript: A tale of two crimes

In April 2024, a 20-year-old woman named Anjela Borisova Urumova called the police and reported that Daniel Pierson had pulled down her pants and struck her in an attempted rape in a parking lot. Pierson was arrested and charged with numerous felonies. Local and national media reported on his arrest with headlines such as “Man attempted to rape, kidnap woman in grocery store parking lot, Bucks County DA says” (Newbill, 2024). That CBS News article

stated that “Daniel Pierson, 41, faces multiple charges including criminal attempt to commit kidnapping to facilitate a felony, criminal attempt to commit kidnapping to inflict injury or terror, criminal attempt to commit rape by forcible compulsion, and more.” This article alone may have ruined Pierson’s life. He spent 31 days locked in jail before law enforcement fortunately found some inconsistencies in the woman’s story, at which point Urumova openly admitted she totally fabricated the whole story. Pierson will never get those 31 days back, and his reputation will never be the same. He will likely be a strong advocate for due process and abolishing pretrial detention for the rest of his life.

In July 2024, CBS reported that a homeless and mentally ill man was sentenced to prison for 30-to-life after pleading guilty to murder (Anderson, 2024). Assamad Nash stabbed Christina Yuna Lee to death in her Manhattan apartment in 2022. The grieving by her loved ones was worsened when they learned that the killer had committed numerous crimes in the past and was out on bail for “four open cases at the time” he killed Lee, according to CBS. Her entire family and all of her friends will likely be strong advocates for strict law enforcement and pretrial detention for dangerous people for the rest of their lives.

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