

OHIO VOTERS WANT A COMMONSENSE APPROACH TO PRETRIAL

Too many people are in Ohio jails simply because they cannot afford money bond, and voters believe it is time for the system to change. A new poll from the Pretrial Justice Institute and the American Civil Liberties Union of Ohio shows that Ohioans think there should be fewer arrests for low-level offenses, more support services in the community, and a system focused on public safety—not on ability to pay money bond.

WHAT IS PRETRIAL?

Pretrial is the part of the criminal justice system that begins when a person comes into contact with law enforcement and ends when any resulting charges are resolved—usually through a dismissal, a plea, or a trial. A critically important element of the pretrial process is deciding whether an accused person should be released until his or her court date—or detained in jail because of concerns about public safety or court appearance.

“Bail” refers to the conditions a person must adhere to in order to be released pretrial. Although many people associate the term with secured money bail, it can also mean nonmonetary conditions—such as agreeing to check in regularly with a pretrial officer, or to undergo drug or alcohol testing.

OHIO AND PRETRIAL

The Supreme Court has stated that, in the United States, “liberty is the norm, and detention prior to trial or without trial is the carefully limited exception.”¹ However, Ohio, like many other states, falls far short when it comes to heeding those words.



This poll was commissioned by the Pretrial Justice Institute and the ACLU of Ohio and designed and administered by Lake Research Partners. The survey was conducted by phone using professional interviewers and reached a total of 537 registered voters in Ohio. The survey was conducted May 2–17, 2018.

Telephone numbers for the survey were drawn using a file of registered voters. The sample was stratified geographically to reflect the expected composition of registered voters statewide. Data were weighted by gender, age, education, party identification, race, and region. The margin of error for the survey is +/- 4.2%.

or alcohol dependencies.⁹ Eighty-seven percent of respondents also would provide support services for people who have mental health needs.¹⁰

Replace Money Bond



Ohioans understand that secured money bond—aka “cash bail” or “money bail”—does not guarantee public safety, and they do not want people to be locked up because they are poor. Seventy-seven percent prefer a system of pretrial release that examines a person’s likelihood of appearing in court with no new arrests and that can reliably detain those with a high likelihood of arrest or nonappearance in court.¹¹ Fifty-five percent of respondents support the use of unsecured bonds (bond that is paid only if the person does not appear in court)¹², and 70 percent of poll respondents want to limit how many days people not charged with serious violent crimes can remain in jail before trial if they cannot afford money bond.¹³

Respondents are also highly supportive of services that help people get to court: 72 percent support providing reliable transportation to court for people awaiting trial who don’t have the money to get there,¹⁴ and 76 percent support using court reminders or supervision for people awaiting trial in the community.¹⁵

Raise Equity



Ohioans believe that the criminal justice system does not treat all people fairly. Seventy-five percent of respondents—93 percent of African Americans and 69 percent of whites—believe that the wealthy enjoy substantially better outcomes than poor and working-class people.¹⁶

Rural Jails in Ohio

Ten counties account for more than half of the people in Ohio. The rest of the state’s population is spread across the remaining 78 counties. Not one of these counties is immune to pretrial challenges. A third of Ohio’s jails are overcrowded, for example, due to people with substance abuse issues, particularly opioids, and the inability to pay money bail.ⁱ Jail is not the best setting for drug treatment, yet many are forced to take on the role. Washington County, with just over 60,000 residents, spent more than \$100,000 on jail-based detoxification services.ⁱⁱ Ohio’s jails have had to increasingly serve individuals with serious mental illnesses, too—more than 15,500 in 2015 alone. Ninety-five percent of jail administrators would prefer to treat people with serious mental illnesses in settings outside of jail.ⁱⁱⁱ The high-level support for community-based help for these individuals creates an opportunity for system change that can reduce the use of jails and produce better outcomes.



33% of Ohio jails are overcrowded due to people with substance use disorders and inability to pay money bail

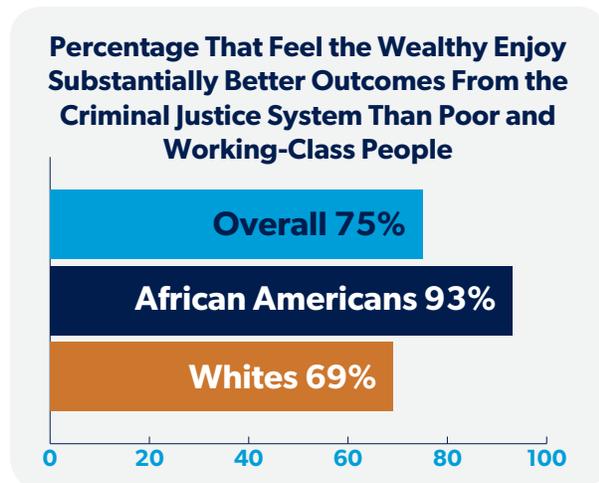


ⁱ Andrew Keiper, “Opioids, High-Priced Bail Combine to Flood Ohio’s County Jails,” Public News Service, Dec. 5, 2017.

ⁱⁱ Tara Britton and Joan Englund, “By the Numbers 4: Developing a Common Understanding for the Future of Behavioral Health Care,” *Survey Data: Jail Administrators and ADAMHS Boards*, The Center for Community Solutions and Mental Health & Addiction Advocacy Coalition, June 2018.

ⁱⁱⁱ Ibid.

Moreover, a majority of respondents (53%) agree that white people enjoy substantially better outcomes from the criminal justice system than do African Americans, Latinx, and other people of color, with 75 percent of African Americans in agreement with this statement and 47 percent of whites.¹⁷ One in five Ohio voters thinks the criminal justice system needs a complete overhaul.¹⁸



Research supports these perceptions. People who cannot afford to bond out of jail are more likely to be found guilty and to receive longer sentences than those who are released.¹⁹ Studies have found that African Americans face higher bail amounts and are less likely to be released on conditions that do not involve paying money.²⁰

OHIO IS ON ITS WAY, BUT MORE WORK NEEDS TO BE DONE

Jurisdictions around Ohio have taken on their pretrial challenges with the same spirit found on fall Saturdays in Ohio Stadium. In spite of earning a “C” in the [State of Pretrial Justice in America report](#), Ohio was named a “state to watch” because several of the state’s most populous jurisdictions are taking steps to maximize pretrial release. These initiatives include deflecting people away from the criminal justice system when they could be better served elsewhere, creating data information systems, and replacing money bail with pretrial assessment. One challenge for Ohio is to expand these efforts statewide, so that all Ohioans may benefit from an effective and just pretrial system.

The findings from this poll hold an important message for system stakeholders and elected officials who determine pretrial policies and practices. Ohioans want change. They believe the current system is too quick to jail people charged with nonviolent crimes—often in ways that do not serve public safety, voters’ top priority. Voters also understand that there are commonsense alternatives to money bond, and when they learn about community-based support and services, their support is strong and enthusiastic.

Endnotes

1. *United States v. Salerno*, 481 US 739 (1987).
2. Daniel J. Dew, "[Money Bail: Making Ohio a More Dangerous Place to Live](#)," Buckeye Institute, fn. 48 (Dec. 11, 2017).
3. Vera Institute of Justice, "[Incarceration Trends](#)" (Dec. 15, 2015). Retrieved from <http://trends.vera.org/incarceration-rates>.
4. Christopher T. Lowenkamp, Marie VanNostrand, and Alexander Holsinger, "[Hidden Costs of Pretrial Detention](#)," Laura and John Arnold Foundation (November 2013).
5. The Annie E. Casey report "[A Shared Sentence](#)" found that 271,000 children in Ohio have been affected by a parent's incarceration in jail or prison; the Children's Welfare League of America estimates that 2.6 million children live in Ohio.
6. Poll question Q19(s): "[Do you favor or oppose reducing] the number of arrests for low-level, nonviolent offenses by issuing citations rather than arrests for those offenses?" Oppose, 16%; don't know/undecided/refused, 10%.
7. Poll question Q12: "[W]hen it comes to deciding how to release or not release someone from jail before trial, which would you rather be the deciding factor: an assessment of the person that takes into account their risk to public safety OR an assessment of the person that takes into account their risk of failing to appear in court for trial?" Don't know/neither/both, 20%.
8. Poll question Q11. "And when it comes to deciding how to release or not release someone from jail before trial, [ROTATE:] _would you rather prosecutors have to make the case to keep someone in jail pretrial OR _would you rather defendants have to make the case that they should be released?" Defendants should have to make the case, 24%
9. Poll question Q19(i): "[Do you favor or oppose] support services for people awaiting trial in the community who are victims of domestic violence?" Oppose, 9%; don't know/undecided/refused, 8%.
10. Poll question Q19(j): "[Do you favor or oppose] support services for people awaiting trial in the community who suffer from mental health issues?" Oppose, 10%; don't know/undecided, 3%.
11. Poll question Q19(o): "[Do you favor or oppose moving] to a preventive detention system that would determine a person's level of risk, and detain the highest-risk individuals in jail without allowing a bail amount?" Oppose, 12%; don't know/undecided, 11%.
12. Poll question Q19(m): "[Do you favor or oppose] instead of requiring people to pay money upfront to be released from jail pretrial, require unsecured bonds, which is a promise to pay a fine if they do now show up for trial?" Oppose, 35%; don't know/ undecided, 9%.
13. Poll question Q19(p): "[Do you favor or oppose limiting] how many days a person not charged with a serious violent crime can stay in jail during pretrial, if they cannot afford money bail?" Oppose, 24%; don't know/undecided/refused, 6%.
14. Poll question Q19(f): "[Do you favor or oppose providing] reliable transportation to court for people awaiting trial who don't have the money to get there?" Oppose, 24%; don't know/undecided, 3%.
15. Poll question Q19(d): "[Do you favor or oppose providing] court reminders or supervision for people awaiting trial in the community?" Oppose, 16%; don't know/undecided/refused, 8%.
16. Poll question Q7: "Do you feel that the criminal justice system in the U.S. basically treats everyone fairly, or do you feel the wealthy enjoy substantially better outcomes from the criminal justice system than poor and working-class Americans?" Total: Fairly, 19%; don't know, 6%. African-American respondents: Fairly, 4%; don't know, 4%. White respondents: Fairly, 23%; don't know, 7%.
17. Poll question Q9: "Do you feel that the criminal justice system in the U.S. basically treats everyone fairly, or do you feel white people enjoy substantially better outcomes from the criminal justice system than black people, Latino people, and other people of color?" Total: Fairly, 37%; don't know, 11%. African-American respondents: Fairly, 15%, don't know, 9%. White respondents: Fairly, 42%; don't know, 11%.
18. Poll question Q3: "Thinking some more about the criminal justice system in the U.S., do you think the criminal justice system needs a complete overhaul, major reform, minor reform, or is there no need for change?" Major reform, 33%; minor reform, 34%; no need for change, 6%; don't know, 6%.
19. Christopher T. Lowenkamp, Marie VanNostrand, and Alexander Holsinger, "[Investigating the Impact of Pretrial Detention on Sentencing Outcomes](#)," Laura and John Arnold Foundation (November 2013).
20. Jonah B. Gelbach and Shawn D. Bushway, "[Testing for Racial Discrimination in Bail Setting Using Nonparametric Estimation of a Parametric Model](#)" (Aug. 20, 2011).