

# Money bail and the Los Angeles County jail system

Unaffordable money bail is an ongoing driver of pretrial incarceration in Los Angeles County.

On any given day, there are nearly 7,000 people who have not been convicted of charges held in the Los Angeles County jail system.<sup>i</sup> They remain incarcerated not because they are a danger to the community, but largely because of an inability to pay bail. In April 2020, at the onset of the pandemic, the California Judicial Council passed Emergency Rule 4 (ER 4), colloquially known as the “zero dollar bail” schedule, that recommended judges set \$0 bail in low-level misdemeanor and felony cases statewide so that public safety, not wealth, underpinned release or detention decisions.<sup>ii</sup> After implementation of ER 4, the Los Angeles County pretrial population decreased by 18 percent in a month—the single largest decline in the county’s overcrowded jail system in years.<sup>iii</sup>

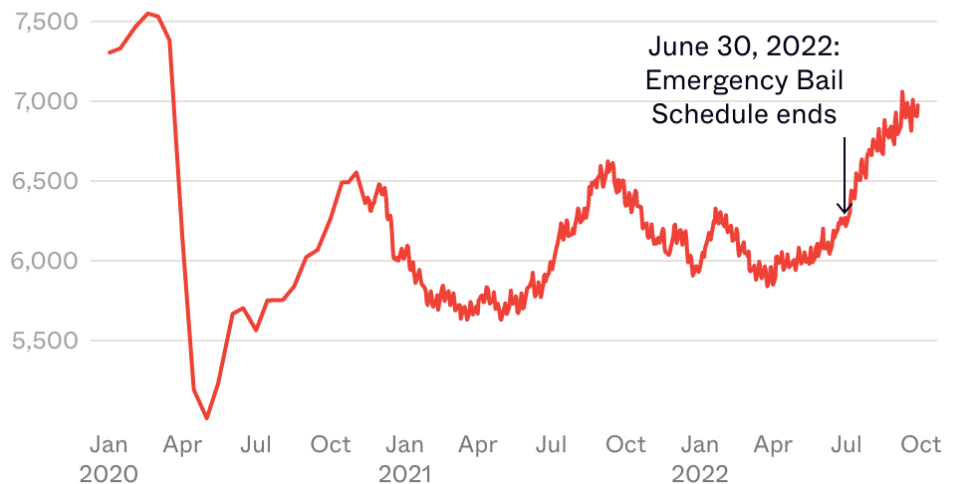
Yet the benefits of “zero dollar bail” have disappeared entirely as the state Judicial Council lifted ER 4 in mid-2020 and the Los Angeles County courts fully rescinded their local emergency bail schedule in June 2022.<sup>iv</sup>

Unsurprisingly, pretrial incarceration has driven the jail population in Los Angeles County back up dangerously close to pre-pandemic levels. (See Figure 1.) In 2021, 55 people died in the LA County jails, the highest number since 2013. Last month, the ACLU filed a lawsuit on behalf of people incarcerated pretrial in the Los Angeles County jail system—including many with mental and/or physical disabilities—to challenge the overcrowding, life-threatening conditions, and inexcusable delays in case processing times. A federal judge ordered the county to address these conditions immediately.<sup>v</sup>

The Vera Institute analyzed a one-day snapshot from May 4, 2022, of everyone held in the seven main facilities that comprise the Los Angeles County jail system.<sup>vi</sup> Below are our findings from the analysis.

Figure 1

## Pretrial population of Los Angeles County jails



## Bail amounts in Los Angeles are high and impact Black and Latinx people disproportionately.

Los Angeles County’s jail population is 83 percent Black or Hispanic/Latinx, in line with racial disparities in the county’s arrests.<sup>vii</sup> (See Figure 2.) The use of money bail disproportionately impacts and compounds those racial disparities. According to a 2018 study by UCLA’s Million Dollar Hoods, the courts set \$3.6 billion in bail and people paid \$41 million in non-refundable bail bond deposits over one year. The “financial toll for pretrial release largely impacts African Americans, Latinos, and the City’s most economically-aggrieved communities.”<sup>viii</sup>

Figure 2

**Demographics of Los Angeles county jails compared to the county overall**



The median total bail amount for those incarcerated pretrial in the Los Angeles County jail system on May 4, 2022, was \$235,000 and the average was \$1,067,265.<sup>x</sup> As comparison, that is four times higher than the median bail amount for people held in the New York City jail system.<sup>x</sup> Racial disparities exist even within the high bail amounts. When controlling for charge level, bail amounts for Black and Latinx people incarcerated on May 4, 2022, were often higher than for other races.<sup>xi</sup> (See Figure 3.)

Figure 3

**Median bail amounts by race and charge level**

Race	Misdemeanor	Nonserious/Nonviolent Felony	Serious/Violent Felony
Black	\$25,000	\$120,053	\$1,030,000
Hispanic	\$35,000	\$110,000	\$1,000,000
White	\$36,000	\$100,000	\$200,000
All other races	\$33,000	\$110,000	\$276,000

**Many people had bail set above the bail schedule recommendation.**

The Los Angeles County Superior Court uses misdemeanor and felony bail schedules to recommend bail amounts by charge.<sup>xii</sup> Judges have discretion to depart from the scheduled bail amount if a person has a prior criminal record or other so-called aggravating factors exist. There is no consistent or transparent way to track in the May 4, 2022, snapshot data if judicial discretion was exercised to depart from the schedule, but out of 748 people charged with only a single count of a single offense, 73 percent had bail amounts greater than the bail schedule recommendation.<sup>xiii</sup> (See Figure 4.)

Figure 4

**Bail burden above schedule recommendation**

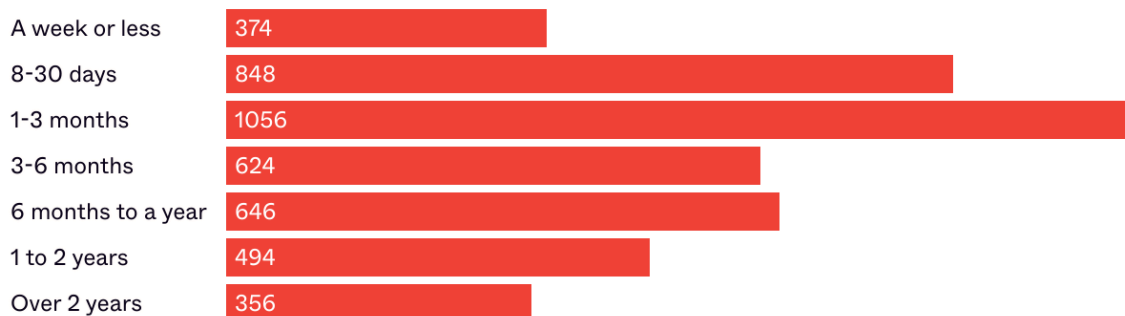
	Number of people	Percent of total
\$1,000 or less over bail schedule recommendation	1	0%
\$1,001 - \$10,000 over	10	2%
\$10,001 to \$100,000 over	207	38%
\$100,000 to \$1,000,000 over	150	28%
\$1,000,000 to \$10,000,000 over	171	31%
More than \$10,000,001 over	6	1%

**Nearly one in five people held pretrial with bail set had been in jail for over a year.**

The length of time people remain in jail pretrial is the other driver of Los Angeles County’s ballooning jail population. For people incarcerated pretrial with bail set, the median number of days in custody was almost three months (84 days). (See Figure 5.)

Figure 5

**Distribution of days in custody for people with bail set**



**Most people incarcerated pretrial in the seven main jail facilities faced felony charges.**

Of the pretrial population with bail set within the May 4, 2022, jail snapshot, 70 percent (3,096 people) faced a serious or violent felony as their top charge; 23 percent (1,027 people) faced a nonserious and nonviolent felony charge; and 6.2 percent (275 people) faced misdemeanor charges. This snapshot only captures pretrial trends in the seven main jail facilities. It does not capture the thousands of people booked and released from local lock-ups or the jail system within days, who often face low-level charges like possession of a controlled substance or driving on a suspended/revoked license. Robust research has found that even 23 hours in jail has a “criminogenic” effect—that negatively impacts a person’s housing, job, and overall security such that they are statistically more likely to be arrested again in the future as a result of incarceration.<sup>xiv</sup> Los Angeles County’s lack of accurate data about the

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thousands of misdemeanor and other low-level cases in the county’s jail system is a significant barrier to developing effective pretrial policies and practices that will benefit public safety and address the underlying drivers of arrest in the first place.<sup>xv</sup>

## Hundreds of people were remanded without bail (i.e., “no bail”).

While people held on unaffordable bail amounts is the biggest driver of pretrial incarceration, hundreds of people were essentially remanded to custody for the entire duration of their case as judges set “no bail.” On May 4, 2022, 905 people (15 percent of the pretrial population and 7 percent of the total jail population) were remanded without bail and had no other holds, including 349 who were facing relatively low-level misdemeanor and felony charges. (See Figure 6.)

Figure 6

### Distribution of people held pretrial but remanded without bail



## Recommendations

The Los Angeles County Board of Supervisors acknowledged last year that, “now is a time for action” on pretrial reform.<sup>xvi</sup> But the crisis clearly remains and little policy or practice change has happened in recent months to address the known harms of the county’s money bail system.

The following recommendations can help Los Angeles County and the rest of the state implement a fairer, more just, and more effective pretrial system:

- Regularly track and release data on the use of money bail and pretrial incarceration, including data sets that include admissions and release cohorts, as well as jail population snapshots. This will provide more complete information on the flow of people into and out of the jail system, bail amounts, length of stay, and release reasons.
- Collaborate with the court to track summary information about judicial pretrial release and detention decisions, including bail deviation decisions as well as the percentage of people released on recognizance; ordered to monitoring; released via pretrial services; incarcerated on bail they cannot make; or remanded without bail. Use that information to inform local pretrial policies and investments in programs like pretrial services. Robust examples of this data collection exist, such as in New Jersey, which publishes regular reports of summary statistics by county; and New York, which provides detailed data for every arraignment.<sup>xvii</sup>

*Written by Chris Kaiser-Nyman, research associate at the Vera Institute of Justice. For more information or any questions, please contact Michelle Parris, program director of Vera California, at mparris@vera.org.*

- <sup>i</sup> Vera Institute of Justice, “Care First L.A.: Tracking Jail Decarceration,” <https://www.vera.org/care-first-la-tracking-jail-decarceration>.
- <sup>ii</sup> Blaine Corren, “Judicial Council Adopts New Rules to Lower Jail Population, Suspend Evictions and Foreclosures,” *California Courts Newsroom*, April 6, 2020, <https://newsroom.courts.ca.gov/news/judicial-council-adopts-new-rules-lower-jail-population-suspend-evictions-and-foreclosures>.
- <sup>iii</sup> Vera Institute of Justice, “Care First L.A.: Tracking Jail Decarceration,” <https://www.vera.org/care-first-la-tracking-jail-decarceration>.
- <sup>iv</sup> Superior Court of California, County of Los Angeles, “Pandemic-Related Emergency Bail Schedule, Traffic Relief Ending This Month in Alignment with Expiration of Statewide Judicial Branch Emergency COVID-19 Rules” press release (Los Angeles, CA: Los Angeles Superior Court, June 14, 2022), <https://www.lacourt.org/newsmedia/uploads/1420226141315222NRPANDEMICRELATEDBAILCHANGES.pdf>.
- <sup>v</sup> *Rutherford v. Villanueva*, Case No. 75-CV-04111-DDP (CA Dist. Ct. 2022), <https://www.aclu.org/legal-document/rutherford-v-villanueva-plaintiffs-memorandum-support-application-temporary>. Gregory Yee, “Federal Judge Imposes Limits on L.A. County Jail after ACLU Sues over ‘Barbaric’ Conditions,” *Los Angeles Times*, September 16, 2022, <https://www.latimes.com/california/story/2022-09-16/federal-judge-order-barbaric-los-angeles-county-jail-conditions>.
- <sup>vi</sup> This analysis utilizes a one-day “snapshot” of everyone incarcerated in the seven main jails of the Los Angeles County jail system on May 4, 2022; this type of dataset has limitations. It includes all charges levied against each person but does not have information about any enhancements or priors that may be involved in any cases. It only shows the total bail amount set for each person, as opposed to showing the bail set for each charge. By nature of it being a snapshot, it only shows people who were incarcerated at the moment of time the snapshot was taken. Therefore, a measure like days in custody represents how long people had been in custody at the time the snapshot was taken and does not represent the total amount of time they will be in custody. Conversely, it does not show the multitudes of people who were released before or after the snapshot was taken. Because of this, median bail amounts represent the median *for the people incarcerated when the snapshot was taken*. All those who were able to post bail before the snapshot was taken are not represented.
- <sup>vii</sup> Data released by the California Department of Justice shows that 76 percent of all arrests in Los Angeles County in 2021 were of Black or Hispanic/Latinx people. Author’s calculations of data from <https://openjustice.doj.ca.gov/data>.
- <sup>viii</sup> Isaac Bryan, Terry Allen, and Kelly Lytle-Hernandez, “The Price of Freedom: Bail in the City of Los Angeles” (Los Angeles, CA: The Million Dollar Hoods Project, 2018).
- <sup>ix</sup> All bail amounts in this resource represent the total bail amount for an individual (i.e., the sum of bail amounts for all charges). All analyses of people with bail set exclude those with holds and four people who were designated as having \$0 bail.
- <sup>x</sup> On February 27, 2022 (the most recent date for which data is available) the median cash bail amount in New York City jails was \$50,000 and mean was \$112,580. Source: NYC jail daily snapshot collected by Vera Institute of Justice.
- <sup>xi</sup> Vera researchers analyzed whether there was a relationship between bail amount and race using linear regression, a simple statistical analysis that can help describe relationships between multiple factors. People counted as Black or Hispanic/Latinx had higher bail amounts than people in other racial categories, even when only comparing cases in the same charge level (e.g., serious/violent felonies, nonserious/nonviolent felonies, or misdemeanors). Because this analysis utilizes a snapshot dataset rather than a release cohort, the difference in bail amounts seen here, particularly for misdemeanors, could theoretically reflect differences in wealth and ability to pay bail rather than differences in bail amounts set.
- <sup>xii</sup> Superior Court of California, Los Angeles County, “Bail Schedule for Infractions and Misdemeanors, 2022,” <https://www.lacourt.org/division/criminal/pdf/misd.pdf> and “Felony Bail Schedule, 2022,” <https://www.lacourt.org/division/criminal/pdf/felony.pdf>.
- <sup>xiii</sup> These 748 people correspond to all people with bail set who were booked with a single count of a single charge of the most common 23 charges for which the bail schedule makes a single recommendation for bail amount. The bail schedule sometimes recommends different bail amounts for different case-specific facts which our dataset does not show. Therefore, people booked with a charge that requires a case-specific analysis are removed from this analysis.
- <sup>xiv</sup> Christopher Lowenkamp, “The Hidden Costs of Pretrial Detention Revisited” (Houston, TX: Laura and John Arnold Foundation, 2022), <https://craftmediabucket.s3.amazonaws.com/uploads/HiddenCosts.pdf>.
- <sup>xv</sup> Danielle Dupuy, Eric Lee, Mariah Tso, Isaac Bryan, and Kelly Lytle-Hernandez, “Bookings into the L.A. County Jail, 2010-2016” (Los Angeles, CA: The Million Dollar Hoods Project, 2019).
- <sup>xvi</sup> Supervisor Sheila Kuehl and Supervisor Hilda L. Solis, “Implementing *Humphrey* and ATI Pretrial Reforms,” (Los Angeles, CA: Los Angeles County Board of Supervisors, July 13, 2021), <http://file.lacounty.gov/SDSInter/bos/supdocs/159923.pdf>.
- <sup>xvii</sup> New Jersey Courts, “Criminal Justice Reform Statistics: Jan. 1 – Dec. 31, 2021,” <https://www.njcourts.gov/courts/assets/criminal/cjrreport2021.pdf?c=N2i>. New York State Unified Court System Division of Technology & Court Research, “Pretrial Release Data” <https://ww2.nycourts.gov/pretrial-release-data-33136>.