

Los Angeles County's New Bail Policy: A Step Forward for Our Community

On October 1, 2023, after years of research, the Los Angeles Superior Court implemented a new bail policy, taking an important first step towards promoting public safety—and away from the two-tiered system in which wealth, not safety, determined whether someone went to jail before trial.¹

Despite claims to the contrary, the new policy is not a radical change. It builds on years of similar practices and research in Los Angeles and across the country—and it preserves significant law enforcement and judicial discretion. Here are five key facts on what the policy, termed Pre-Arrest Release Protocols (PARP), does and does not mean for Los Angeles:

1) This policy allows people charged with low-level offenses to return home before their first court hearing.

- The new policy applies only to the period between an arrest or citation and the first court hearing (called an arraignment).
- People charged with low-level offenses, like vandalism or petty theft, will be allowed to go home, instead of being held in jail or released after paying money bail.
- For higher-level charges, like resisting arrest, people will remain in jail until their case is reviewed by a magistrate judge, who can add additional release conditions like an order to stay away from a certain person or place. Alternatively, if the magistrate judge determines a person's release would threaten public safety or make their return to court unlikely, they can keep the person in jail until their arraignment.
- For the highest-level charges—including serious or violent felonies and domestic violence offenses—nothing has changed. People charged with these offenses will either remain in jail until their arraignment or be released on money bail.
- At arraignment, nothing has changed. A judge has discretion to set money bail, impose conditions of release, or detain the person.

2) This policy promotes public safety, while pretrial incarceration often compromises it.

- Robust research shows that even 24 hours in jail is so destabilizing that it makes someone significantly more likely to be arrested again.² The new bail policy will benefit public safety by returning people home so that they can take care of their families, show up to their jobs, and access treatment and services—instead of languishing in jail.
- A very similar policy in place in Los Angeles during the pandemic (the Emergency Bail Schedule) showed positive results for public safety:
 - An analysis of the LAPD's own data shows that violent crime and property crime were lower or remained effectively unchanged while the policy was in place, compared to the two-year period before the policy.³
 - Another analysis from the Judicial Council shows a 5.8 percent decrease in rearrests for misdemeanors and a 2.4 percent decrease in felonies while the policy was in place.⁴
- Research from Kentucky, New Jersey, New York, Texas, Chicago and elsewhere shows that in places with similar policies, bail reform is consistent with public safety.⁵

- An independent federal monitor in Harris County, Texas—home to Houston—found that rearrest rates stayed largely consistent after the county adopted a policy of releasing most people charged with misdemeanors without money bond in 2019.⁶
- In Kentucky, after the court mandated release for most misdemeanors in 2017 (with an expansion to include nonviolent and nonsexual felonies in 2020), nine out of 10 people released under this policy stayed arrest-free—a rate on par with those released by a judge or released only after paying money bail.⁷
- In New York, despite the fearmongering around bail reform, a rigorous academic study found that it reduced overall re-arrest and felony re-arrest among people released under the new law.⁸ Another study found that it had virtually no effect on the crime rate.⁹
- Although critics of the new bail policy frequently cite reports by the Yolo County district attorney claiming that similar policies resulted in more crime, these reports are significantly flawed.¹⁰
 - The Yolo reports are based on a small sample size—one looked at only 100 people compared to the tens of thousands studied in Houston or Kentucky—and unlike those referenced above, the analyses did not use rigorous research protocols.¹¹

3) This policy is not a major change from the bail policies that were previously in place.

- For most of the past three years, the court had a policy recommending release for people charged with low-level offenses to help prevent the spread of COVID-19 in our overcrowded jails and in the community. For all other charges, people could have a magistrate judge review their custody status before arraignment or wait to see a judge at their arraignment.
 - As discussed above, LAPD data shows that crime overall was lower while this policy was in place, and the Judicial Council concluded that the available data “suggests an overall positive impact of the program.”¹²
- Even before the pandemic, law enforcement agencies (including the LAPD) have long had a practice of issuing citations for low-level offenses that allowed Angelenos to be released from custody before their arraignment.¹³

4) This policy does not eliminate law enforcement’s discretion to detain people for safety concerns.

- This policy does not hamstring the efforts of law enforcement agencies to preserve public safety.
 - In all felony cases—including low-level offenses for which the default is release—if a law enforcement officer thinks there is an immediate safety concern, they can choose to take the person into custody and request that a magistrate judge review the case. The same is true for misdemeanor cases related to domestic violence.¹⁴
- For higher-level charges, magistrate judges likewise have discretion to detain someone until arraignment.

5) This policy does not eliminate the money bail system.

- Under the policy, money bail can be set for any case at arraignment.
- Likewise, for many charges—including serious or violent felonies—the only option for release before arraignment is money bail.

Everyone wants to be safe, no matter their race, wealth, or where they live, and we should not have to sacrifice justice in the name of safety. Examining the evidence—including analysis of past experiences in Los Angeles and across the country, as well as robust research on bail and incarceration—makes it clear that Los Angeles County’s new bail policy is a commonsense reform that will promote both public safety *and* justice for all Angelenos.

Endnotes

- ¹ Superior Court of California, County of Los Angeles, “Nation’s Largest Trial Court Unveils Safe and Fair Pre-Arrest Release Protocols for Non-Violent, Non-Serious Felonies and Misdemeanors,” press release (Los Angeles: Superior Court of Los Angeles, 2023), perma.cc/696C-3JDZ. For the conclusion of the workgroup that led to this policy, see Pretrial Detention Working Group, *Pretrial Detention Reform: Recommendations to The Chief Justice* (San Francisco, CA: Judicial Branch of California, 2017), perma.cc/ML3L-SZVD.
- ² Core Correctional Solutions, *The Hidden Costs of Pretrial Detention Revisited* (Houston, TX: Arnold Ventures, 2022), 2, 4, perma.cc/99VE-QLG8.
- ³ Vera Institute of Justice, *The Emergency Bail Schedule is a Necessary First Step for Pretrial Safety and Justice in Los Angeles County* (New York: Vera, 2023), 1, perma.cc/4KCA-PB5R.
- ⁴ Judicial Council of California, *Pretrial Pilot Program: Final Report to the Legislature* (San Francisco, CA: Judicial Council of California, 2023), 3, perma.cc/7FMC-76SF.
- ⁵ For New Jersey bail reform, see Glenn A. Grant, *Annual Report to the Governor and the Legislature* (New Jersey: New Jersey Courts, 2020), perma.cc/KHQ2-M652; and Don Stemen and David Olson, *Is Bail Reform Causing an Increase in Crime?* (New York: Harry Frank Guggenheim Foundation, 2023), perma.cc/LEK8-LFF7. For Chicago, see Don Stemen and David Olson, *Dollars and Sense in Chicago: Examining the Impact of General Order 18.8A on Felony Bond Court Decisions, Pretrial Release, and Crime* (Chicago, IL: Safety and Justice Challenge, 2020), perma.cc/P9UK-2BZA. For more across the nation, see Sarah Staudt, “Releasing People Pretrial Doesn’t Harm Public Safety,” Prison Policy Initiative, July 26, 2023, prisonpolicy.org/blog/2023/07/06/bail-reform.
- ⁶ Brandon L. Garrett, Sandra Guerra Thompson, Dottie Carmicheal, et al., *Monitoring Pretrial Reform in Harris County: Third Report of the Court-Appointed Monitor* (Durham, NC: Duke University, 2021), viii, perma.cc/965M-MLH3.
- ⁷ Ashley Spalding, “New Data Helps Pave the Way for Bail Reform in Kentucky,” *KyPolicy*, January 21, 2021, perma.cc/63W8-6FXW.
- ⁸ René Ropac and Michael Rempel, *Does New York’s Bail Reform Law Impact Recidivism? A Quasi-Experimental Test in New York City*, (New York: John Jay College of Criminal Justice, 2023), 12, perma.cc/K9J7-JRL4.
- ⁹ Sishi Wu and David McDowall, “Does Bail Reform Increase Crime in New York State: Evidence from Interrupted Time-Series Analyses and Synthetic Control Methods,” *Justice Quarterly*, 2023, doi.org/10.1080/07418825.2023.2209145.
- ¹⁰ For such criticisms, see Suzette Martin Valladares, “L.A. County in More Danger with ‘Get Out of Jail Free’ Policy,” *The Santa Clarita Valley Signal*, October 7, 2023, perma.cc/43WF-FCNF; and Kenneth Schrupp, “Los Angeles County Zero Bail Policy for Most Crimes Goes Into Effect,” *The Center Square*, October 3, 2023, perma.cc/M6E2-2NNZ.
- ¹¹ Jeff Reising, *Yolo County: Posted Bail vs. Zero Bail Analysis* (Woodland, CA: Yolo County District Attorney’s Office, 2023), perma.cc/2BPD-ZSEW; and Jeff Reising, *Yolo County Emergency Bail Analysis*, (Woodland, CA: Yolo County District Attorney’s Office, 2022), perma.cc/3YJJ-2A3N.
- ¹² Vera, *The Emergency Bail Schedule is a Necessary First Step*, 2023, 1; and Judicial Council, *Pretrial Pilot Program*, 2023, 3.
- ¹³ Correspondence from Michael R. Moore, chief of police of the Los Angeles Police Department, to Board of Police Commissioners, re: “The Los Angeles Police Department’s Release from Custody Citations Issued to Persons Experiencing Homelessness and the Office of the City Attorney’s Homeless Court Program Operated by the Homeless Engagement and Response Team (Heart) Report,” August 1, 2018, 3, perma.cc/8GX8-2M95.
- ¹⁴ Superior Court of California, County of Los Angeles, “Misdemeanor Bail Schedule,” updated October 18, 2023. perma.cc/HTV2-BSKK.