

Barbara Fair
New Haven Resident
Testimony on Pretrial Detention and Release
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Good morning members of the Sentencing Commission, thank you for providing me the opportunity to come before you to discuss bail reform. My name is Barbara Fair and I am a life-long resident of the Greater New Haven community. I have spent decades working toward trying to shift police and prison culture in this state and across this nation. I plan to continue until injustice is no longer a normative part of the system.

My initial problem with incarceration is the fact that we place human beings in a cage. That alone is inhumane yet I won't go any further into that issue because this commission is here to address bail and how excessive bail keeps people in cages for a longer period of time.

The purpose of bail was established to assure that a person once arrested would show up in court. Setting bail should never have been a tool to keep people in jail or as a means to enhance the probability of a conviction. The sole purpose of bail was to ensure a defendant showed up for court proceedings. Unless one posed a flight risk or there were real reasons to believe if upon release one might later commit more serious crime the setting of bail is unwarranted.

There have been many studies which indicated that a person if unable to post bail was more likely to plea bargain simply as a way to get out of jail. That was never supposed to happen and yet it does all the time. Poor individuals are disproportionately the victims of the bail system. There are people lingering in jail right now with bails set at under \$500. Poverty should never be criminalized and yet it is and a normative practice throughout the system.

When one is held in jail due to inability to post bail they face crowded and unsanitary conditions. Violence and infectious disease becomes a heightened risk. Mental illness is exacerbated when one is caged. People risk loss of employment, housing and sometimes custody of their children.

The eighth amendment to the US Constitution was created to prevent the setting of excessive bail. I guess one of the larger questions is how is "excessive" defined. Excessive to the poor is quite different when compared to a person of wealth.

During the decision making process about whether to set bail and how much factors that should be considered are (1) presumption of innocence (2) the nature of the crime (3) weight of the evidence (4) recent criminal history of that individual (5) individual ties to the community including family and employment (6) does person present as a flight risk. If we truly practiced presumptive innocence and restorative justice bail would not be an issue for us right now. The fact that bail has become a huge industry along with so many other factors aligned with