

Brett Davidson
New Haven Resident
Testimony on Pretrial Detention and Release
November 3, 2016

Good morning, members of the Sentencing Commission. Thank you for allowing my public testimony.

My name is Brett Davidson, and I am Co-Founder and full-time Executive Director of Connecticut Bail Fund, a charitable organization dedicated to pretrial justice. As of next week, we will begin paying full cash bonds for indigent defendants who would otherwise be incarcerated pretrial. By preventing the harms of wealth-based jailing — which include the trauma of incarceration, increased plea bargaining, loss of housing and employment, and family disunification — our organization will help restore the presumption of innocence to individuals living in poverty.

Over the summer, we led a series of conversations with members of the New Haven community — public defenders, social workers, formerly incarcerated individuals, and more — about the pretrial system. We met too many people who lost their housing, employment, and child custody while held pretrial, often on bond amounts as low as \$1000. It became apparent that predicating pretrial release on a defendant's ability to pay does not just create a two-tiered system of justice — it also erodes public trust in the legitimacy of the courts.

Short of abolishing bail, there are policies we can institute now to reduce wealth-based jailing.

First, we can guarantee every defendant an ability-to-pay determination at their arraignment. Bail is intended, at least in theory, to incentivize appearance, not punish. It cannot serve its function when it is not affordable. Below a certain income threshold, defendants should be presumed unable to pay bail as a condition of release.

Second, we should make a 10% cash alternative widely available. Presumptively innocent individuals and their families should not have to forfeit a non-refundable fee to a commercial bondsman. The purpose of bail — to incentivize appearance — is better served with a refundable deposit. This alternative is currently available by law, but not frequently offered.

These solutions alone, however, are insufficient. We must begin an inclusive public conversation about when, if ever, it is acceptable to jail the presumptively innocent. This conversation must foreground the voices of the real experts: currently and formerly incarcerated individuals and their families.