



**To the Sentencing Commission**  
Suzanne Bates and Thurston Powers

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Thank you for this opportunity to testify. My name is Suzanne Bates, and I am the policy director for the Yankee Institute for Public Policy, and this is Thurston Powers, he is a policy fellow at the Yankee Institute and the co-chair of the New York University Wagner Students for Criminal Justice Reform.

We are here to offer our recommendations for how Connecticut should reform its pretrial justice system.

We believe the state's current reliance on cash bail leads to unfair outcomes for many of our state's poorest residents. In a paper we co-published last year with the Reason Foundation, we looked at Connecticut's pretrial system, and found that there are individuals stuck in jail waiting for trial because they cannot afford to make bail – and some of those same individuals would be unlikely to receive jail time for the crimes they allegedly committed.

In our study, we found that the pre-trial population in September 2015 was roughly 3,400 with 690 persons unable to secure \$2,000 dollars or less for their release. In September 2016, the population is still roughly 3,400 with 603 persons unable to secure \$2,000 dollars or less for their release. The magnitude of Connecticut's indigent pre-trial population problem has not changed since we released the study.

The inverse is also true – there have been times when wealthy individuals have made bail even when they are at risk to the public. For example, Connecticut resident Selami Ozdemir was arrested on domestic violence charges. He posted bail and promptly committed a murder-suicide just 10 hours later. The Ozdemir case offers a dramatic example of the limitations of a cash-based bail system without a data-driven risk assessment tool at its center.

We recommended a move to a non-cash bail system, with varying levels of pre-trial monitoring based on an established risk assessment tool. This tool would be designed to assess both public safety risk and the flight risk of the subject.

If the state did go to an entirely non-cash bail system, it would likely require an amendment to the state's constitution. Connecticut's constitution requires that all defendants have the right to bail.

The language currently says: "In all criminal prosecutions, the accused shall have a right... to be released on bail upon sufficient security."

If the state were to move to a non-cash bail system, it would be necessary to change this provision so individuals who were deemed to be sufficiently dangerous to the public or of significant flight risk could be held while awaiting trial.

This amendment would place our state constitution more in line with the federal Bail Reform Act of 1984 and the U.S. Constitution, which allows for greater judicial discretion in the denial of bail and the application of pre-trial services and monitoring.

Barring a constitutional amendment, offering pretrial services in addition to bail in cases where bail is offered would likely reduce the indigent pre-trial population.

The federal Department of Justice has declared that the inability to pay bail is insufficient justification for pre-trial detention via the 14th amendment. From the perspective of the DOJ, the charge, risk to community or of flight should either be so great as to justify pre-trial detention or they must be able to pay set bail."

There are other reasons to reduce the reliance on cash bail for low-risk offenders. Beyond the benefits to the individual, allowing low-risk offenders to be released on their own recognizance would do two things – it would reduce the amount of money the state has to spend on pre-trial detentions for these offenders, and it would free up funds to spend on capturing and detaining those truly at risk to the public.

It costs \$120 a day to keep a defendant in jail, while according to estimates by the federal court system it costs roughly \$7 a day to supervise an individual pre-trial.

There are several alternatives to cash bail that could be used to monitor defendants pre-trial, such as supervision, electronic monitoring, or other interventions.

We look forward to seeing what recommendations you make to state lawmakers. And we are happy to assist in any way moving forward.