

# PRETRIAL JUSTICE: PROBLEM & SOLUTION



## The Problem

The pretrial system in America is unfair, unsafe and fundamentally incapable of doing its job—maximizing pretrial liberty, appearance in court and public safety. Across the country those with money—regardless of where they got it or their danger to the community or victims—can purchase their freedom while people without money remain in jail pending trial.

While the price of freedom lost by hundreds of thousands of Americans every year is incalculable, the cost of pretrial detention to taxpayers is more than \$14 billion annually. Only a small fraction of those arrested end up in prison and a significant number of those held pretrial in local jails are released once they plead or have been found guilty. We incarcerate them while they are presumed innocent and release them once they are convicted. Fortunately, there are solutions to these challenges.



## So how do we fix it?

### Risk assessment

gives judges a proven way to focus on the information about people that matters—and avoid those things that don't—when exercising discretion to detain.



### Other pretrial solutions

include system reforms, court reminders, and appropriate monitoring.

## Quick Facts

- In the U.S., money/poverty—not risk—is the primary factor that determines pretrial detention
- Pretrial incarceration costs the country an estimated \$14 billion each year<sup>1</sup>
- Pretrial incarceration accounted for 95% of jail growth from 2000 to 2014—currently 63% of jail inmates are unconvicted, awaiting trial<sup>2</sup>
- African Americans and Latinos receive higher bail amounts—sometimes twice as high—as white people with identical backgrounds and are subsequently detained pretrial at significantly higher rates<sup>3</sup>
- Compared to identical people who are released before trial, detained people are convicted more, sentenced to prison more and for longer terms—this feeds mass incarceration<sup>4</sup>
- Many people incarcerated before trial plead guilty—regardless of actual guilt or their chances at trial—simply to go home to their families<sup>5</sup>
- Even short stints of pretrial incarceration lead to an increased likelihood of recidivism<sup>6</sup>

## The Solution

Recent change efforts have centered around several key areas that have the greatest positive impact on current challenges, including:

- **Reducing the number of people who are brought to jail** by using strategies such as diverting people with mental health or substance use issues to needed services, increasing the use of citations in lieu of arrest and reclassifying non-violent offenses that currently require custodial arrest;

