Race & Bail in America

At every stage in the criminal justice system people of color fare worse than their White counterparts—the pretrial stage is no exception. Money bail is especially unfair to people of color, not to mention defendants, victims, and the general public.

African Americans are more than 2.5 times more likely to be arrested than White Americans.

For non-violent drug arrests:
- African Americans are 2 times more likely to be detained than Whites.
- Hispanics are 2.5 times more likely to be detained than Whites.

1 in 15 African American males are incarcerated.
1 in 36 Hispanic males are incarcerated.
1 in 106 White males are incarcerated.

Race and bail amounts are significantly correlated

The U.S. Supreme Court has affirmed the pretrial process as “perhaps the most critical period” of criminal legal proceedings. Yet, to date, racial disparities at this stage of the justice process have not gotten the same scrutiny as other stages like arrest and sentencing.

Monetary bail system

- Lack of adequate information to help make informed decisions
- No oversight of discretionary decision-making
- Jurisdictions that allow non-lawyers to make bail decisions
- Implicit biases of system actors

Reliance on a money-based pretrial system automatically disadvantages people of color, who are more likely to be living in poverty.
Even short periods of pretrial detention have a destabilizing effect that increases the likelihood of:

- failure to appear in court
- post-disposition recidivism
- new criminal activity while awaiting trial

Of those detained pretrial, “most will receive dismissals, no jail time, or a jail sentence less than time served in pretrial detention.”

Compared to defendants released at some point prior to trial, defendants held for the entire pretrial period had:

- 4x greater likelihood of being sentenced to jail
- 3x longer jail sentences
- 2x longer prison sentence
- 3x greater likelihood of being sentenced to prison

Pretrial risk assessment can help to level these disparities.

Racial disparities in pretrial systems can be mitigated through practitioner education and the adoption of objective risk assessment tools.

Risk Assessment is just one part of the solution.

- Move from monetary- to risk-based system
- Review of bail determinations
- Require articulation of bail decisions

addressing discrimination

- Multiple stages of release
- Oversight and accountability
- Education of implicit biases

Find out more and get involved at: www.pretrial.org