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Support Pre-Trial Justice

On any given night, Virginia jails hold more than 28,000 people – 46 percent of whom have not been convicted of any crime. The state’s own data reveals that between 2012 and 2017, the average daily population of people held in Virginia jails pre-trial increased by 10 percent. The reason most of those people are being held? Because they can’t come up with cash bail.

We need to end wealth-based detention and eliminate the racial disparities that currently exist in our criminal justice system. The harms of pre-trial detention are unequivocal: People lose their jobs, homes and families while detained. People also forfeit their rights to trial when pleading guilty in exchange for release. Hundreds of thousands of Virginians are held in jail, yet little is known about how many people across the Commonwealth have been subject to pre-trial incarceration not because they are considered a safety risk, but because of the size of their wallet.

Statistics show that poor people and people of color are disproportionately affected by the bail system. Unnecessary pre-trial detention ruins lives and puts people in a place where they are more likely — regardless of guilt or innocence — to take a plea deal. Wealth or poverty should not be a factor in determining justice. Pre-trial detention should not be used unless an individual is a threat to themselves or their community. Defendants often face an impossible choice: Sit in jail as the case moves through the system, pay a non-refundable fee to a for-profit bail bonds company, or plead guilty and give up the right to trial.

In Virginia, we need to better understand our criminal justice system in order to propose effective and sustainable change. The justice system involves multiple independent agencies, such as police departments, courts, Commonwealth’s attorneys and sheriff’s departments. As a result, accurate data is essential to answering big questions about the criminal justice system, especially when it comes to bail reform. Virginians recognize the racial and economic bias in pre-trial detentions and deserve data transparency from the criminal justice system.

The legislature should add a provision to the existing code requiring Department of Criminal Justice Services to establish data reporting standards. The purpose of such a change would be to ensure that judicial officers considering bail make decisions that not only protect the public and guard against the risk of intentional failure to appear, but also protect against unnecessary and costly pre-trial detention. This requirement would also promote a culture change among judicial officers to make bail decisions based on justice, not the size of a person’s wallet.

Data transparency will allow for Virginians to better understand the pre-trial realities - including length of stay, bond amounts, and racial and economic disparities - of those in the criminal justice system. This data would arm researchers and policymakers with pertinent information to better understand the issues that are plaguing the system and recommend substantive policy changes. Such a change would also strengthen the Commonwealth's efforts to provide intervention and diversion services to adults, which would have a sizable effect on the overall number of people incarcerated and recidivism rates.