

CONTACT

Georgetown Law Office of Media Relations
mediarelations@law.georgetown.edu
(202) 662-4199

Kacey Bonner
kbonner@fairandjustprosecution.org
(310) 402-3013

FOR IMMEDIATE RELEASE

More Than 80 Current and Former Prosecutors and Law Enforcement Leaders Call for Bail Reform in Legal Filing

Fair and Just Prosecution and Georgetown Law's Institute for Constitutional Advocacy and Protection Argue Use of Money Bail to Detain Poor Defendants Before Trial is Unconstitutional and Harms Public Safety

NEW ORLEANS (January 30, 2019) — A group of 82 criminal justice leaders – including current and former local, state and federal prosecutors and other law enforcement officials, former Department of Justice leaders, and former judges from 33 different states and the District of Columbia – filed an amicus curiae (“friend of the court”) [brief](#) today in *Daves v. Dallas County*, a case in the U.S. Court of Appeals for the Fifth Circuit challenging the constitutionality of cash bail. The brief supports the district court’s decision that detaining poor people before trial based solely on their inability to pay pre-determined money bail in Dallas County, Texas, while those who are able to pay go free, violates equal protection and due process rights guaranteed by the U.S. Constitution.

The amicus brief is the latest in a series of filings in cases across the country in which prosecutors and others responsible for public safety have weighed in against the use of cash bail. The brief was written by litigators at Georgetown Law’s Institute for Constitutional Advocacy and Protection (ICAP) and was coordinated by Fair and Just Prosecution (FJP), a non-profit organization dedicated to promoting a justice system grounded in fairness, equity, compassion, and fiscal responsibility.

“Common sense dictates that people should not be held in jail simply because they cannot afford a monetary payment. For too long our country has tolerated a two-tiered system of justice that imposes a ‘poverty penalty’ and incarcerates pretrial individuals who pose no danger to our community, simply because they cannot pay their way to freedom,” said **FJP Executive Director Miriam Krinsky**. “A cash bail system unnecessarily destabilizes individuals, families and communities and erodes trust that is integral to the effective functioning of our justice system.”

The group of signatories includes **Attorneys General Thomas J. Donovan** (Vermont), **Brian E. Frosh** (Maryland) and **Karl Racine** (District of Columbia); **District Attorneys Mark Dupree** (Kansas City, KS), **Eric Gonzalez** (Brooklyn), **Lawrence S. Krasner** (Philadelphia), and **Kim Ogg** (Houston); **State’s Attorneys Marilyn Mosby** (Baltimore), **Kimberly Foxx** (Chicago), **Sarah George** (Burlington, VT); **State Attorney Aramis Ayala** (Orlando); **Police Chiefs Chris Magnus** (Tucson Police Department, AZ) and **Abdul D. Pridgen** (Seaside Police Department, CA); **Sheriff Jerry Clayton** (Washtenaw County, MI) and **Commissioner Branville Bard** (Cambridge Police Department, MA). They argue that wealth-based detention

undermines confidence in the criminal justice system, impedes the work of prosecutors and law enforcement officials, fails to promote safe communities and costs taxpayers money.

The group of signees includes:

- **36** sitting elected prosecutors, including attorneys general, district attorneys, and state attorneys;
- **13** current or former police chiefs or sheriffs;
- **16** former attorneys general, district attorneys and U.S. Attorneys;
- former head of the Civil Rights Division at the U.S. Department of Justice **Vanita Gupta** and former acting U.S. Solicitor General **Walter Dellinger**

“Prosecutors and law enforcement officials understand that public safety depends on confidence in the integrity and legitimacy of the criminal justice system,” said the brief’s author, **Mary McCord**, a former federal prosecutor. “Detaining people in jail before trial for days, weeks, even months, solely because they are too poor to afford money bail, exposes the unfairness of the system and drives a wedge between public safety officials and the communities they serve.”

In *Daves v. Dallas County*, the plaintiffs successfully argued that the county’s practice of detaining individuals pretrial solely because they cannot afford to pay pre-determined amounts of money bail, with no inquiry into their ability to pay or whether their detention is necessary to ensure their appearance at future court hearings or to protect public safety, violates constitutional equal protection and due process rights. The amicus brief supports the district court’s order enjoining this wealth-based detention system.

“This brief reflects the growing recognition that the cash bail system is no longer acceptable,” said **District Attorney Rachael Rollins**. “It leads to the unnecessary and unconstitutional detention of people who are indigent, deepens the cycle of poverty, disparately impacts Black and Latinx communities and eviscerates public trust in the justice system. We can and must do better, and that means we must challenge the money bail system wherever it exists.”

The full list of 82 signatories is listed in the amicus brief, which can be read [here](#). For more on the need for bail reforms, watch ICAP’s Mary McCord explain the constitutional problems with money bail in a [video](#) for Georgetown Law’s “Legalese” series or read FJP’s [Issue Brief on Bail Reform](#).

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ABOUT FAIR AND JUST PROSECUTION

Fair and Just Prosecution is a national network of elected prosecutors working towards common-sense, compassionate criminal justice reforms. To learn more about FJP’s work, visit <http://www.fairandjustprosecution.org/> or follow us on Facebook [@FairAndJustProsecution](#).

ABOUT GEORGETOWN ICAP

The mission of the [Institute for Constitutional Advocacy and Protection](#) is to use the power of the courts to defend American constitutional rights and values. The Institute, based at Georgetown University Law Center, draws on expert litigators, savvy litigation strategy, and the constitutional scholarship of Georgetown to vindicate individuals’ rights and protect America’s constitutional way of life.