**Community Bail Fund Pilot Project Report**

April 2021



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# Proviso Text

Of this appropriation, $100,000 shall not be expended or encumbered until the executive transmits a report on the performance outcomes from a contract with a King County nonprofit organization that pays bail for indigent individuals as described in Section 62, Expenditure Restriction ER2, of this ordinance and a motion that should acknowledge receipt of the report and reference the subject matter, the proviso's ordinance, ordinance section and proviso number in both the title and body of the motion, and a motion acknowledging receipt of the report is passed by the council.

To the extent data are available, the report shall include, but not be limited to:

1. The number of bails posted;
2. The number of unique individuals that received bail support;
3. The frequency of bail posted for each individual that received bail support more than once;
4. The average bail amount;
5. The total amount of bail posted;
6. The total number of jail detention days averted because the individual would have been in jail if bail was not posted;
7. The total number of failure to appears for each individuals that received bail support; and
8. A summary of support services provided to assist individuals to appearance in court.

To the extent that the data are available, the report shall include data for 2017, 2018, 2019 and 2020.

The executive should file the report and a motion required by this proviso by September 1, 2020, in the form of a paper original and an electronic copy with the clerk of the council, who shall retain the original and provide an electronic copy to all councilmembers, the council chief of staff and the lead staff for the law and justice committee, or its successor.[[1]](#footnote-2)

# Executive Summary

In an effort to address the disproportionate impact that the bail system in King County has on low-income residents, the 2019-2020 Adopted Budget included $400,000 in funding for the Department of Community and Human Services (DCHS) to contract with a King County nonprofit organization that pays bail for indigent individuals who would otherwise spend their pretrial time in jail.

DCHS’s Adult Services Division contracted with the Northwest Community Bail Fund (NCBF) on the Community Bail Reform Pilot Project from July 2019 through December 2020. NCBF was tasked with working collaboratively with community partners to develop and implement the pilot project.

From July 1, 2019 to Dec. 31, 2020, NCBF posted $200,000 in bail for 557 indigent criminal defendants in King County who were subject to pre-trial bail of $10,000 or less. In addition, NCBF subcontracted with the Urban League of Metropolitan Seattle and Community Passageways to provide support for clients at their bail hearing and other court-ordered requirements, and to develop release plans to provide recently released clients with basic needs, including housing, shelter, food, and job training and placement, among other services.

As a result of its work on this project, NCBF and its partners recommend:

* Increased funding for organizations that provide supportive services for people who are released on bail, including shelter, food, and job training. Meeting basic needs will not only reduce the number of times people are likely to miss court but would also reduce the amount of crime related to poverty that comes before the court.
* Providing every inmate who needs one with an identification card upon release.One of the biggest barriers faced by clients in the pilot project was lack of identification. Without an identification card, clients were unable to access many services including housing, medical care, and food programs.
* Maintaining the changes in detention practices started during the COVID-19 pandemic, including the reduced jail population.

# Background

In an effort to address the disparate impact that the bail system in King County has on low-income residents, the King County 2019-2020 Adopted Budget included $400,000 in funding for the Department of Community and Human Services (DCHS) to contract with a King County nonprofit organization that pays bail for indigent individuals who would otherwise spend their pretrial time in jail.

**Department Overview**

DCHS manages a broad range of programs and services to help the county's most vulnerable residents and strengthen its communities. The mission of DCHS is to provide equitable opportunities for people to be healthy, happy, self-reliant, and connected to community.

DCHS administers a wide variety of housing and homelessness investments, behavioral health treatment, and human services. To do so, it draws upon many different federal, state, and local funding streams to support and promote a more comprehensive system of care and supports for King County residents. DCHS’s Adult Services Division administers programs and services for indigent individuals who have been charged and held on inaccessible bail while awaiting trial.

**Context**

The money bail system has disproportionate negative impacts on low-income, minority defendants. According to the American Civil Liberties Union (ACLU) of Washington:

Individuals jailed before trial are more likely to receive a sentence of jail or prison, and for a longer time, than those who are free before their trial. Keeping a person in jail may also prevent a trial from even occurring: The loss of income, possible loss of employment and housing, disruption of prescribed medications, and stresses on one’s family that accompany incarceration have induced many a person to accept a plea bargain to get out.

Poor people, people of color, and people with certain disabilities are disproportionately affected by the unfairness of bail. They are more likely to be behind bars before trial, and this leads to a greater likelihood that they will be convicted and incarcerated.[[2]](#footnote-3)

In an effort to address the disproportionate impact that the bail system in King County has on low-income residents, the 2019-2020 Adopted Budget included $400,000 in funding for the Department of Community and Human Services (DCHS) to contract with a King County nonprofit organization that pays bail for indigent individuals who would otherwise spend their pretrial time in jail.

DCHS’s Adult Services Division contracted with the Northwest Community Bail Fund (NCBF) on the Community Bail Reform Pilot Project from July 2019 through December 2020. NCBF worked collaboratively with community partners to develop and implement the pilot project.

**Report Methodology**

The Community Bail Fund Pilot Project proviso report was developed by the Office of Performance, Strategy and Budget, in partnership with the Northwest Community Bail Fund (NCBF). Data included in this report was provided by NCBF.

# Report Requirements

DCHS’s Adult Services Division contracted with the Northwest Community Bail Fund (NCBF) on the Community Bail Reform Pilot Project from July 2019 through December 2020. NCBF was tasked with developing and implementing the pilot project, including:

* Posting bail directly to the court to secure the pre-trial release of indigent individuals at no cost to the recipient;
* Providing support services to clients who are released, including housing, transportation, job training, job placement, counseling, and mentorship; and
* Compiling data regarding bail posting, client demographics, and outcomes.

**Posting Bail**

From July 1, 2019 to Dec. 31, 2020, NCBF posted $200,000 in bail for 557 indigent criminal defendants in King County who were subject to pre-trial bail of $10,000 or less. Prior to the Community Bail Reform Pilot Project, NCBF was often limited to bails of $3,000 or less due to budget constraints as a small nonprofit. NCBF partnered on this work with Community Passageways, an organization that collaborates with families, schools, the court system, correctional center staff, religious institutions, policy makers, and community members to support adolescent youth of color and work toward zero youth incarceration. Community Passageways met with clients prior to their bail hearing and worked with them throughout their case to help them navigate services, the court system, and its requirements.

**Providing Support Services**

NCBF subcontracted with the Urban League of Metropolitan Seattle and Community Passageways to develop release plans for recently released clients to help them meet their basic needs, including housing, shelter, food, and job training and placement, among other services.

As a result of the release plans and the advocacy of NCBF and Community Passageways, judges agreed to reduce total bail costs for these individuals from $688,000 in total to $51,000.

Throughout the course of the project NCBF, the Urban League, and Community Passageways provided support services to 11 young adults—Community Passageway’s focus population—with original bails of more than $20,000, including:

* Transitional housing for six young adults;
* Transportation assistance for three young adults; and
* Connections to a job readiness program for six young adults.

In addition, NCBF provided housing referrals for seven chronically homeless adults.

**Compiling Data**

As required by Ordinance 18835, NCBF tracked performance outcomes and provided historical data, where available.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Northwest Community Bail Fund Performance Outcomes[[3]](#footnote-4)** | | | | |
| **Performance Outcome** | **2017** | **2018** | **2019** | **2020\*** |
| Number of bails posted | 21 | 125 | 176 | 483 |
| Number of unique individuals that received bail support | 21 | 122  *(3 multiple postings in one event, i.e. charges for district and muni together, 0 repeat postings over time)* | 165  *(4 multiple postings in one event, i.e. charges for district and muni together), 7 repeat postings over time)* | 458  *(12 multiple postings in one event, i.e. charges for district and muni together, 13 repeat postings over time)* |
| Frequency of bail posted for each individual that received bail support more than once | NA | NA | 7 received bail twice | 12 received bail twice, 1 received bail 3 times |
| Average bail amount | $1,809 | $1,518 | $1,779 | $3,901 |
| Total amount of bail posted | $38,000 | $189,750 | $313,150 | $1,884,280 |
| Total number of jail detention days averted because the individual would have been in jail if bail was not posted | 1,243 | 13,044 | 14,348 | 33,553 |
| Total number of failure to appears for each individual that received bail support | 3 (14%) | 40 (33%) | 65 (39%) | 91 (20%) |

*\*2020 data includes $200K in bails posted using pilot project funding, as well as donations.*

**Challenges**

While the Community Bail Fund pilot project had a number of successes, including building strong partnerships between NCBF, the Urban League, and Community Passageways, it also faced a variety of challenges that affected participation and outcomes. These challenges included:

* **COVID-19:** COVID-19 led to changes in court practices and the suspension of jail visits to keep inmates and staff safe. Prior to March 2020, NCBF and its partners were meeting in person with indigent inmates to determine their interest in community supports and programs, allowing candidates to opt-in to the community programming from the start. When in-person visits to the jail were suspended, NCBF and its partners were not able to meet with potential clients to vet their interest and instead relied on referrals from lawyers. As a result of this change, fewer clients received support services than otherwise would have.
* **Substance Use/Warrants:** A number of clients in the pilot project presented with drug addiction and/or outstanding warrants in other jurisdictions—issues that must be addressed in order to stabilize clients.
* **Lack of identification:** Identification cards are often required for people to access basic services, including housing, medical care, and food programs. However, many individuals, including those in the pilot project, lack identification when they are released from jail and face challenges in accessing supportive services.

**Community Partner Recommendations**

NCBF, Community Passageways, and the Urban League recommend the following based on their learnings from the pilot project:

* **Fund supportive services for people who are released on bail.** NCBF recommends sustained funding for safety-net organizations working to connect indigent people with basic needs, including shelter, food, and job training. Meeting basic needs will not only reduce the number of times people are likely to miss court but would also reduce the amount of crime related to poverty that comes before the court.
* **Invest in capacity building at organizations supporting people involved in the criminal legal system.** Capacity is one of the biggest challenges facing organizations in the pilot project. With additional capacity, organizations could develop and implement a service-connector model, in which staff members leverage their expertise to connect clients to the right services at the right time**.**
* **Consider piloting a project to provide every inmate who needs one with an identification card upon release.** The two biggest barriers faced by clients in the pilot project were lack of identification and drug addiction. Without identification, clients were unable to access many services. The Urban League and Community Passageways encourage King County to develop a program to provide people with an identification card upon release.
* **Build on the changes in detention practices started during the COVID-19 pandemic.** During the pandemic, the County reduced the jail population to keep inmates, staff, and their families safe. However, the population in King County Correctional Facilities remains high. At the time of the writing this report, NCBF also recommended that King County to prioritize inmates for the COVID-19 vaccine as they become eligible under the Washington State Department of Health’s guidelines.

# Next Steps

The 2021-2022 Adopted Budget includes a number investments in and reinventions of the criminal legal system that are focused on providing support services and reducing the jail population, including:

* **Diversion and re-entry hub:** King County is partnering with community-based organizations to implement a diversion and reentry hub in the jail in 2022 to provide behavioral health, cognitive behavioral therapy, community case management coordination, and other services to 60 individuals at a time (up to 700 annually) as an alternative to detention.
* **Community Diversion Model:** The Executive’s Office is working with the Department of Community and Human Services and community organizations to implement the King County Prosecuting Attorney’s proposal to divert approximately 1,000 of the lowest-level filings from the judicial system each year. Instead of facing traditional prosecution, these individuals—who are facing their first charge and are disproportionately young men of color—will be offered a community-based alternative that emphasizes restorative justice and restoration for harmed parties. Violent crimes and crimes against people are not eligible. Community-based diversion alternatives are being developed, including a restitution fund for harmed parties. Design will occur through mid-2021, followed by development of community-based alternatives. The program will be implemented no later than the beginning of 2022. The program will eventually be fully funded through staff savings in public defense, prosecutors, and the courts.
* **Limits on the Jail Population:** During COVID, King County has reduced the daily adult population in the jail to 1,300, down from approximately 1,900 pre-COVID. The Executive has directed the Department of Adult and Juvenile Detention to work with others in the criminal legal system to maintain population at this lower level after the pandemic crisis passes. This will allow the closure of one floor (out of 12) at the King County Correctional Facility in Seattle.
* **Law Enforcement Assisted Diversion (LEAD):** The budget also provides ongoing funding for LEAD, a collaborative community safety effort that offers law enforcement a credible alternative to booking people into jail for criminal activity that stems from unmet behavioral health needs or poverty. LEAD diverts individuals who are engaged in low-level drug crime, prostitution, and crimes of poverty away from the criminal legal system—bypassing prosecution and jail time—and connects them with intensive case managers who can provide crisis response, immediate psychosocial assessment, and long term wrap-around services including substance use disorder treatment and housing.

In addition to the programs above, the State Legislature is considering legislation that will provide better support for prevention and reentry.

# Appendix

**Appendix A**

**Northwest Community Bail Fund Conclusions**

*The Northwest Community Bail Fund provided the following conclusions from the Community Bail Fund Pilot Project on April 8, 2021.*

The conclusions we draw from this study along with our ongoing work fully align with 2020’s historic cultural moment. The principals and demands of the Black Lives Matter and “Defund” movements are that we correct the racial bias in our criminal legal system by diverting the heavy resources we put into policing, arresting, jailing and prosecuting so called crimes which are frequently actions driven by poverty and desperation. We take the opportunity here to reframe the argument regarding diverting funds from the criminal legal system to community supportive programs.

Seen from our perspective, our current system is already diverting resources such as funds and manpower into criminalizing and policing the actions stemming from poverty, recognized but unaddressed racial inequity across all facets of society, from education to food deserts to job opportunities etc., mental health treatment and substance abuse, and away from community organizations and public health. This is guaranteed to perpetuate those crimes while preventing the county’s ability to progress in alleviating causes - a more lasting and impactful solution. The county budget is in effect robbing the county much needed community funding.

The power of the county budget is to bring focus to priorities. For far too long, we’ve experimented with the principle that jails and policing could solve crime. The adage that trying the same thing and expecting a different result could not be more apt. In order to secure safety and prosperity, in order to “clean up the streets” the county budget must support community driven actions to address poverty, racial bias, mental illness and substance abuse and must stop diverting funds into criminalizing the same.

In its current state, and in spite of WA State CrR 3.2’s mandate that conditions of release be the least restrictive and that imposition of cash bail take into account the ability to pay, the use of cash bail continues to disproportionately affect people of color, the poor and the desperately poor, those with mental health instability and those with substance abuse issues. Due to demands for cash prior to release, all of these demographics are more likely to spend significant amounts of pre-trial (un-convicted) time in resource intensive, publicly funded jail custody, where the demand for supportive services shifts from public health and community organizations to inadequate detention services.

Cash bail also permanently drains significant resources from these vulnerable populations. As we’ve shown here, the amount of cash needed to secure the freedom of a small portion of the county’s total detainees in 2020 cost us money. Without the bail fund, families are forced to spend funds securing professional bail bond services and those resources are no longer available to them for basic living expenses like food and rent, which perpetuates the poverty that leads to actions of desperation. Put another way, the cash bail system does not solve crime, it recycles it.

Therefore, we recommend a simultaneous shift of resources back to community organizations and public health, where it is most effective and the elimination of cash bail.

1. [Ordinance 18835](https://aqua.kingcounty.gov/council/clerk/OldOrdsMotions/Ordinance%2018835.pdf), Section 62, Department of Community and Human Services, P3 [↑](#footnote-ref-2)
2. ACLU of Washington, “[No Money, No Freedom: The Need for Bail Reform](C://Users/RossKa/OneDrive%20-%20King%20County/Downloads/Bail%20Reform%20Paper%20FINAL-v1.pdf),” Sept. 2016. [↑](#footnote-ref-3)
3. Data in this table provided by NCBF [↑](#footnote-ref-4)