

## Conservative Principles Can Help End Unnecessary Pretrial Jail Time

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The right and left don't seem to align on much these days — especially in an election year — but one clear exception is the need to address our criminal justice system. As the promise of reform through Congress and federal legislation remains to be realized, members of both sides of the aisle are increasingly recognizing that even a far-reaching federal reform bill alone wouldn't be enough. Many of the problems in our criminal justice system start much earlier, in our communities and their jails.

While members of the left have traditionally been the ones speaking out against over-incarceration, there is a growing consensus among modern conservatives that current use of jails — especially with regards to pretrial practices — is at odds with their core principles: limited government and individual liberty. More than 70 major conservative leaders have signed a [Right on Crime statement of principles](#) that argues that criminal justice systems ought to be subject to the same cost-benefit scrutiny applied to other government programs. In the past three decades, local spending on local jails has [increased fourfold](#) — a faster rate of growth than that of most other public services. This skyrocketing cost reflects the fact that the way we use jail has changed significantly —

despite violent and property crime down by nearly half since their peak, annual admission to jails nearly [doubled](#) between 1983 and 2013.

Too many Americans are being held in jail when they do not need to be. This excessive denial of individual liberty also creates out-of-hand government spending—the cost to taxpayers of incarcerating people until their trials alone is approximately 9 billion a year.

In Texas, an early leader in state-level justice reform, several jurisdictions have piloted solutions to address excessive jail use. San Antonio set up a 24-hour crisis drop-off center that gives police officers options other than arrest and jail time when dealing with people with mental illness or drug use disorders who need help. In Houston — a jurisdiction [participating](#) in the Safety and Justice Challenge — police now must offer first-time offenders arrested on low-level marijuana-related charges the chance to complete 8 hours of a class or community service instead of going to jail.

We can learn from these successes. I recently published an [exposition](#) on the case for pretrial justice reform and how conservative solutions can help right-size our local systems. The seven keys to ensuring that the principles of limited government and individual liberty are used to curtail unnecessary pretrial incarceration are:

- 1) Reining in the excessive number ofailable offenses that result in unnecessary arrests;
- 2) Providing options for police to divert appropriate individuals from jail;
- 3) Incorporating risk and needs assessments to determine the risk that those who arrive at jail pose for flight or being re-arrested, particularly for a violent offense;
- 4) Reducing overall bond amounts, when setting bail, incorporating risk level and ability to pay;
- 5) Ensuring quick appointment of defense counsel so that defendants have a voice in the decision on the bail amount and other pretrial conditions;
- 6) Using pretrial supervision—when defendants are released and must report to an officer before trial—to monitor appropriate defendants, particularly those who cannot afford bail; and
- 7) Creating a way for individuals with warrants for minor offenses such as traffic violations to come forward and pay their fine to avoid future jail time (or performing community service if unable to pay).

These seven key solutions point to a new approach to not only pretrial incarceration, but the way we use detention as punishment in general: we should use the *least* restrictive option necessary to both protect public safety and uphold the integrity of the judicial process. By following the bedrock conservative principles of limited government and individual liberty, we will find answers to the jail problems in our own communities.