INTRODUCTION

1 The End of Money Bail?
By Judge Nannette A. Baker
This issue of The Judges’ Journal provides an overview of bail reform efforts in the United States, as jurisdictions continue to reexamine the constitutionality of money bail. Articles consider the history of bail, the human and societal costs of pretrial detention, pretrial reform efforts, and bail reform success stories, all of which offer judges practical advice for pursuing reform.

FEATURES

4 A Brief History of Bail
By Timothy R. Schnacke
Knowing the history of bail in England and America is crucial to navigating a path through our current generation of bail reform. Specifically, the history answers important questions about what triggers bail reform, what elements must be addressed, and how to avoid the need for bail reform in the future. The history is a “fundamental” of bail, and knowledge of bail’s history is of equal importance to knowledge of other fundamentals, such as the law and the pretrial research.

8 Pretrial Risk Assessments: A Practical Guide for Judges
By David G. Robinson, Hannah Jane Sassaman, and Megan Stevenson
In an attempt to balance public concern about safety and an effort to reduce the use of cash bail, jurisdictions are increasingly turning to algorithmic risk assessments in pretrial decision making to determine who can “safely” be released from jail.

12 Criminal Justice Reform Is About Fairness: The New Jersey Approach
By Justice Stuart Rabner
New Jersey has been at the forefront of the bail reform movement, as legislators and court officials across the country realize that the criminal justice system is flawed if those with money receive more favorable outcomes than those without.

14 Efficient Injustice: Too Much Pretrial Incarceration Damages the Integrity of Our Courts
By John Raphling
Pretrial incarceration forces poor people accused of low-level crimes to choose between extreme financial hardship caused by paying bail, suffering in jail to assert their right to trial, or giving up that right and pleading guilty to get out of custody. This results in unfair treatment of people based on their lack of wealth, and it diminishes the integrity of our court system.

18 Do Bail-Setting Judges in America’s State Courts Need Secured Money Bond? The Experience of the District of Columbia Courts
By Judge Truman A. Morrison III
In most courtrooms in America, pretrial injustice is a continuing reality. The root of the injustice is monetized decision making by bail-setting judges. Judge Morrison shares his experience on the District of Columbia Superior Court, which has established a unique way to set bail to improve the quality of pretrial decision making.
Challenging Money Bail in the Courts
By Thea L. Sebastian and Alec Karakatsanis

Our legal system and our culture have become desensitized to the suffering that we inflict on human beings and their bodies when we put them in a jail cell. At Civil Rights Corps, we bring litigation and engage in advocacy to resensitize our legal system to its everyday brutality and to restore intellectual rigor, evidence, and humanity to our decisions.

The Importance of Judicial Leadership in Achieving Pretrial Justice Reform: New Mexico’s Experience
By Justice Charles W. Daniels

New Mexico has been one of the growing number of jurisdictions to commit to replacing the traditional money-based pretrial release and detention system with one based on evidence-based individual risk. The state’s successful experience emphasizes the importance of judicial leadership in reaching this goal.

The Pathways of Pretrial Reform
By Brook Hopkins and Colin Doyle

Money bail was originally intended to ensure that people who were released from jail would return to court, but it has become a predatory financial system. The monetary toll of bail imposes high costs on those who are detained, their families, their communities, and the larger public. Hopkins and Doyle highlight recent pretrial reform efforts and show how they are helping to bring about effective change.

Cyberattacks on Courts and Other Government Institutions
By Judge Herbert B. Dixon Jr.

Judge Dixon warns about the increasing frequency of hacking and other cyberattacks on courts and other government institutions.

JUDICIAL ETHICS

Judicial Ethics of Bail Decision Making
By Marla N. Greenstein

Articles in this issue reflect the highest goals of the Code of Judicial Conduct and call upon judges to change the existing cash bail and pretrial justice system in order to promote public confidence in the independence, integrity, and impartiality of the judiciary.

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