

State Attorneys General and Criminal Justice Reform

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Bail Reform/ Pre-Trial Justice

Nationally

National Conference of State Legislatures, [Trends in Pretrial Release: State Legislation](#) (last updated April 1, 2018).

- “Since 2012, every state legislature has addressed pretrial policy, resulting in close to 700 new enactments. The report "[Trends in Pretrial Release: State Legislation](#)" highlights legislative action between 2012 and 2014. Enactments from this time period have individualized the pretrial process by focusing on specific defendants or offense categories.”

Vera Institute, [A Breakthrough Year on Bail Reform](#) (2017).

- Vera Institute Resource highlights the bail reform efforts by states and municipalities, including recent legislation, newest initiatives and general facts and figures.

Civil Rights Corps, [Ending Wealth based Pretrial Detention](#).

- Information and resources on successful class actions lawsuits brought by the organization, challenging money bail in several jurisdictions across the country.

State AG Amicus Participation

[Brief Of Amici Curiae Current And Former District And State’s Attorneys, State Attorneys General, United States Attorneys, Assistant United States Attorneys, And Department Of Justice Officials, In Support Of Plaintiffs-Appellees, Miranda Lynn O’Donnell v. Harris County, Texas, et. al., No. 17-20333 \(5th Cir. 2018\)](#).

- Nearly 70 current and former law-enforcement officials from more than 30 states participated as amici. [Fifth Circuit upheld trial court’s historic decision](#) that found Harris County bail system violative of due process and equal protection rights for indigent individuals arrested for misdemeanor offenses. Civil Rights Corps served as co-counsel in this case.

California

Alexi Kossef, [California’s bail system doesn’t make us safer, attorney general says](#), The Sacramento Bee (Feb. 20, 2018).

- California Attorney General Xavier Becerra declined to appeal a recent court decision on excessive bail, lending his support to a “growing statewide push to overhaul a money bail system that criminal justice advocates argue is [discriminatory to poor Californians](#).”

[In re KENNETH HUMPHREY, on Habeas Corpus A152056 \(Ct. App. 1st 2018\).](#)

- California Court of Appeals decision reversing trial court's bail determination and remanding for further proceedings. [Civil Rights Corps](#) served as co-counsel for Petitioner Kenneth Humphrey.

Illinois

[Illinois courts adjusting to state's new bail reform law](#), Seattle Times (Feb. 12, 2018).

- The new Illinois Bail Reform Act, which went into effect January 1, 2018, requires a lawyer to be present at the initial court appearance for anyone arrested, and aims to release defendants facing non-violent misdemeanors or low-level felonies without requiring them to post cash bail if they don't pose a reasonable threat to the community and are unlikely to flee.

Maryland

Scott Dance, [Since bail reform, Maryland holding fewer people who can't afford bond, Assembly panel told](#), The Baltimore Sun (January 16, 2018).

- "...about one-fifth of defendants are being held because they can't or don't pay bail, down from 40 percent in the months before the reforms were enacted, Judge John P. Morrissey, chief judge of the District Court of Maryland, said Tuesday. About 53 percent of those who appear before a bail commissioner are released from custody, up from 44 percent before the reforms..."

Michael Dresser, [Frosh warns that bond industry-supported bail bill undoes Maryland court's rule](#), The Baltimore Sun (March 14, 2017).

- AG Brian Frosh defended a Maryland Court of Appeals rule (against legislation in the Maryland General Assembly backed by the bail bond industry) that "requires judges and court commissioners to take into account a defendant's ability to afford bail when setting the terms for pretrial release," to prevent undue hardship and disproportionate prison time for defendants in poverty. Frosh also issued an opinion last year questioning the constitutionality of keeping prisoners in jail when they can't afford bail.

[Advancing Bail Reform in Maryland: Progress and Possibilities](#), Woodrow Wilson School of Public and International Studies, Princeton University (Revised, Feb. 26, 2018).

- A report detailing both Maryland's recent bail regime, the reform effort and key recommendations to ensure lasting progress.

Ovetta Wiggins, [Md. attorney general's office raises constitutionality questions about state's cash bail](#)

[system](#), Washington Post (Oct. 11, 2016).

- Maryland OAG issued an opinion (written by Sandra Benson Brantley, counsel to the General Assembly) that the current system of setting bail could violate due process, bolstering the efforts of a group of Maryland lawmakers to abolish cash bail for poor defendants.

[Maryland Attorney General's Bail System Reform FAQ](#)

- This Q&A about bail system reform is hosted on the Maryland OAG website. It includes a letter from Attorney General Brian Frosh to the Maryland Standing Committee of Rules of Practice and Procedure, requesting changes to Maryland Rule 4-216 on pretrial release.

Massachusetts

Katie Lannan, [A broad push for pretrial justice reforms from the states](#), Boston Globe (Aug. 8, 2017).

- Attorney General Maura Healey favors eliminating detentions based solely on someone's inability to post bail.

Vermont

Mark Johnson, [Donovan pushes bail reform in interest of fairness, economic equity](#), VTDigger.com (Jan. 10, 2018).

- Vermont Attorney General TJ Donovan urged lawmakers to reform the state's bail statutes by capping the amount for certain nonviolent misdemeanor crimes. His reasoning is that this would allow a greater number of lower-income people a chance to be released before trial and would also provide uniformity in pre-trial justice by reducing judicial discretion.

New Jersey

[Attorney General Law Enforcement Directive No. 2016-6 v.2.0](#) – Modification of Directive Establishing Interim Policies, Practices, and Procedures to Implement Criminal Justice Reform Pursuant to P.L. 2014, c. 31.

- An Attorney General Law Enforcement Directive detailing the overhaul of Criminal Justice Reform in NJ; it declared one of its overarching goals to be ensuring that "low-risk, indigent defendants are not being incarcerated on low money bails that they cannot pay."

New Mexico

[New Mexico Dispute Over Bail Reform Escalates in Court](#), US News and World Reports (Sept. 25, 2017).

- New Mexico Attorney General Hector Balderas fought back against a lawsuit from the Bail Bond Association of New Mexico and several state lawmakers that sought to block new rules governing pre-trial release of defendants, calling it frivolous and asking a federal court to sanction the plaintiffs' attorneys.

Police Accountability

California

Dale Kasler and Benji Egel, [California AG to oversee investigation into fatal police shooting of Stephon Clark](#), The Sacramento Bee (March 27, 2018).

- California DOJ is providing independent oversight of current investigation into shooting death of Stephon Clark.

Press Release, California Department of Justice, [Attorney General Becerra Takes On Independent Review of San Francisco Police Reforms](#) (Feb. 5, 2018).

- The California Department of Justice, led by AG Becerra, “entered into an agreement with the City of San Francisco (City) and San Francisco Police Department (SFPD) to evaluate and publicly report on the police department’s implementation of [reforms previously recommended](#) by the U.S. Department of Justice (USDOJ).”
 - The OAG is stepping into a vacuum left by U.S. Attorney General Jeff Sessions and the USDOJ after they abandoned collaborative police reform efforts overseen by the federal Office of Community Oriented Policing Services (COPS) in San Francisco and throughout the nation.
 - "When local law enforcement agencies reach out for support, the last thing our federal government should do is abandon them," said Attorney General Becerra.

Illinois

Bill Rutthart, Anne Sweeney and John Byrne, [AG Madigan sues to enforce Chicago police reform; Emanuel pledges cooperation](#), Chicago Tribune (Aug. 30, 2017).

- Attorney General Madigan sued the city of Chicago “contending Mayor Rahm Emanuel's reforms are not sufficient to prevent the Chicago Police Department from continuing a pattern of deadly and excessive force that disproportionately hurts African-Americans and Latinos.” Madigan filed the lawsuit based on the findings of the federal Justice Department investigation into the city of Chicago police form, and named deficiencies including inadequate training, a lack of supervision and "a failure to investigate misconduct and discipline officers."

Results:

- Mayor Emanuel was forced to accept a federal judge's oversight of the Police Department
- Will likely inspire increased reforms – beyond those already put in place by his administration
- Madigan also critiqued Emanuel's efforts to negotiate with Trump's administration "which has signaled a general opposition to court oversight of police departments" and which Madigan said, "fundamentally does not agree with the need for constitutional policing."

Additional Resources:

- [State of Illinois v City of Chicago Complaint](#)
- Illinois Attorney General website - [Chicago Police Consent Decree](#)

New Jersey

[Attorney General Law Enforcement Directive 2018-1](#) – Law Enforcement Directive Concerning Public Release of Video Recording Depicting Police Deadly Force Incidents.

- Attorney General Gurbir S. Grewal issued an Attorney General Law Enforcement Directive instructing that law enforcement would make publicly available footage from body-worn cameras and patrol vehicle dashboard-mounted cameras in any case involving police use of deadly force.

[Attorney General Law Enforcement Directive No. 2018-3](#) – Statewide Mandatory Early Warning Systems.

- An Attorney General Law Enforcement Directive mandating that all law enforcement agencies in New Jersey adopt and implement Early Warning ("EW") Systems, which are "designed to detect patterns and trends in police conduct before that conduct escalates," allowing the law enforcement agency to identify and address all officer conduct that poses potential risk to public safety and agency integrity.

New Jersey Attorney General's Office Website -- [How New Jersey Ensures Independent Investigations of Officer-Involved Shootings](#) (last visited, June 5, 2018).

- Website provides information on AG guidelines for law enforcement officials on how to investigate police involved shootings. "In 2015, the New Jersey Attorney General issued the 'Independent Prosecutor Directive,' establishing a process to ensure that officer-involved shootings be investigated fully, fairly, and independently of any potential bias. The Directive applies to any discharge of a firearm by a law enforcement officer in the course of his or her duties, regardless of whether the shooting resulted in death."

[NJ attorney general mandates outreach to understand probe of police shootings](#), NJTV News.com (May 31, 2018).

- Article discusses how Gloucester County, NJ law enforcement officials are inviting members of the

public to training sessions to demonstrate how police departments around the state must follow state attorneys general guidelines for fatal police-involved shootings.

New York

[New York Attorney General's Special Investigations and Prosecutions Unit website.](#)

- This website contains information on SIP's mandate and all investigation reports, including its first biennial report. "On July 8, 2015, Governor Cuomo issued Executive Order No. 147, which appointed the New York State Attorney General as special prosecutor in incidents where a law enforcement officer causes the death of an unarmed civilian, or where there is a significant question as to whether the civilian was armed and dangerous. The following day, the office announced the creation of the Special Investigations and Prosecutions Unit (SIPU), led by Executive Deputy Attorney General Alvin Bragg, to investigate and, if warranted, prosecute all cases that fall within the scope of Executive Order 147."

[Troy City Council meets with State Attorney General's office on police reform](#), wnyt.com (Albany, NY) (Mar. 10, 2018).

- NY OAG met with Troy, NY City Council members to discuss implementing new safety policies and procedures after the State Attorney General's office issued a report regarding the police shooting death of 37-year-old Edson Thevenin during a Troy traffic stop in April of 2016. The OAG did not find the Troy Police Department criminal responsible but called for changes, including the installation of body and dashboard cameras for police.
- See, [Troy activists want review board](#), Albany Times Union, (Jan. 19, 2018).

Press Release, New York Attorney General, [A.G. Schneiderman Announces Indictment Charging Rensselaer County DA Joel Abelow With Official Misconduct And Perjury](#), (Dec. 1, 2017).

- Grand Jury charged Rensselaer County District Attorney Joel Abelow with two counts of official misconduct and one count of perjury in the first degree. "The charges stemmed from Abelow's handling of the April 2016 death of Edson Thevenin, a civilian who was shot and killed during an encounter with Troy police."
- See, [When the People's Lawyer Breaks the Law – Editorial](#), New York Times, (Dec. 13, 2017).

Ohio

Randy Ludlow, [Task force: Attorney general should handle fatal police use of force cases](#), The Columbus Dispatch (July 13, 2016).

[Ohio Attorney General Investigation – Officer Involved Shooting of Timothy Russell and Malissa Williams](#)
(Feb. 5, 2013).

- Attorney General Mark DeWine stated that a November 2012 police chase that ended with the fatal shooting of two suspects revealed a "systemic failure" of the Cleveland police department, citing both individual policy violations by police officers and the failure of their communications and command system to provide adequate structure and support. He [later stated](#) that, "People in leadership need to take responsibility. The police department system failed these officers and they failed the general public. You can't look at that report and come up with any other conclusion," after Police Chief Michael McGrath responded to DeWine's assertions at a later City Hall press conference saying there was no "systematic failure."

Texas

[Texas Attorney General's Office – Peace Officer Involved Shooting Reports](#)

- The Office of the Attorney General (OAG) adopted and published reporting forms for Officer-Involved Shooting Incidents, as required by [Articles 2.139 and 2.1395](#) of the Code of Criminal Procedure, which became effective September 1, 2015.

Data Collection

California

[Criminal Justice Statistics Center.](#)

- According to the site, "The California Attorney General has the duty to collect, analyze, and report statistical data, which provide valid measures of crime and the criminal justice process to government and the citizens of California. The mandate of the Criminal Justice Statistics Center (CJSC) is to collect and report statistical data that allow for valid assessments of crime and the criminal justice process in California. This site contains crime data submitted by county and local law enforcement agencies, as well as current and historical publications on crime, juvenile justice, homicide, and hate crimes in California."

[California DOJ Open Justice Website.](#)

- Open Justice is "a transparency initiative led by the California Department of Justice that publishes criminal justice data so we can understand how we are doing, hold ourselves accountable and improve policy to make California safer." It includes information and data trends regarding firearm sales, arrests, hate crimes, deaths in custody, use of force, and more in the California criminal justice system.

Miscellaneous

Criminal Justice Reform Bills/Directives

[Massachusetts] [Gov. Charlie Baker signs landmark Massachusetts criminal justice overhaul, despite concerns](#), MassLive.com (April 13, 2018).

- Massachusetts Attorney General Maura Healey supported Governor Charlie Baker's signing of a criminal justice reform bill that creates major policy changes in the Massachusetts criminal justice system, including improving jails, diverting more individuals into treatment and programming, and improving the reentry process of inmates into society. Healey called the bill a "landmark" piece of legislation. "This is about putting justice in our criminal justice system and getting it right," Healey said.
- *See also*, [7 Key Provisions Of The Criminal Justice Bill](#), WBUR.com (April 6, 2018).

[New Jersey] [Attorney General Law Enforcement Directive No. 2018-2](#) – Statewide Mandatory Random Drug Testing.

- An Attorney General Law Enforcement Directive expands the existing AG Testing Policy for testing law enforcement officers for illegal drug use to include a random drug testing component. The previous policy already required the testing of applicants and trainees for law enforcement positions as well as current officers for whom reasonable suspicion existed that they were using drugs illegally.

Restorative Justice

[Washington D.C.] [D.C. OAG's Restorative Justice Program](#)

- Attorney General Karl Racine launched this program in 2016 "to address the root problems of crime and conflict, and offer juvenile prosecutors an alternative to traditional prosecution." The D.C. OAG is the first public safety agency to implement an "in-house" restorative justice program in which restorative justice specialists work alongside prosecutors. Over 80 percent of youth who have completed the program have not subsequently been re-arrested.

Sentencing Reform

[Delaware] Press Release, [Delaware Governor's Office, Markell Signs Mandatory Sentencing Reform into Law](#) (July 20, 2016).

- Former Delaware Governor Jack Markell signed legislation into law reforming Delaware's habitual offender law, eliminating mandatory life sentences for drug offenders and providing judges with

more discretion for sentencing non-violent offenders. Delaware [Attorney General Matt Denn proposed](#) many of these changes back in 2015.

[Georgia] [National Association of Attorneys General \(NAAG\) Annual Meeting \(2016\)](#).

- Video of former Georgia Attorney General Sam Olens discussing his offices efforts to push sentencing reform in Georgia.

[Georgia and Maryland] [Aleph Institute Summit Prison Sentencing Laws featuring former Georgia Attorney General Sam Olens and Maryland Attorney General Brian Frosh](#) (Mar. 2016).

- Video of Aleph Institute conference featuring former Georgia Attorney General Sam Olens and Maryland Attorney General Brian Frosh. The session highlights the bipartisan nature of state criminal justice reform efforts. Items discussed include sentencing reform, drug treatment diversion programs and bail, fines and fees.

Reducing Recidivism

[Pennsylvania] [Philly should look west for criminal justice reform ideas | Editorial](#), Philadelphia Inquirer (June 5, 2018).

- Pennsylvania Attorney General Josh Shapiro told Philadelphia elected officials and activists that to improve its efforts to reduce the city's imprisoned population, they should look to programs in Allegheny County in Western Pennsylvania that help incarcerated people avoid recidivism and contribute to society through job training and placement. Shapiro specifically cited Allegheny County's Community Resource Centers (CRCs), which are often called "one-stop shops" for reentry services. At these CRCs, people can check in with a probation officer, take a court-ordered drug test, enroll for counseling or courses, and speak with a job placement service.