

Reforming Money Bail in Hillsborough County, FL

This research brief builds on the report, Liberating Our Health: Ending the Harms of Pretrial Incarceration and Money Bail, with a focus on the local context of Hillsborough County, Florida. Visit HumanImpact.org/HealthNotBail to read the full report.

Summary

Hillsborough County, Florida, has one of the largest jail systems in the country. On any given day, between 2,100 and 2,400 people experience pretrial incarceration in Hillsborough County, Florida — about 70% to 80% of the jail population.

As is the case across the country, poor people and people of color are overrepresented in this population. This is a consequence of the criminalization of poverty, over-policing of communities of color, and a history of structural racism that is still baked into many institutional policies and practices across the criminal legal system.

Yet Hillsborough County does not track data for people held on bail who can't afford it. Nationally, 9 out of 10 people who are locked up in jail pretrial are there because they can't afford the bail amount that was set for them. In Hillsborough County, these numbers are currently unobtainable. What we do know is that the median bail amount in the county is \$5,000, while the median household income in the county is \$53,742 — with 15% of the population at or below the poverty level.

Pretrial incarceration and the money bail system are harmful to health. Those who are incarcerated pretrial face major disruptions in their lives that can harm health. These disruptions include loss of jobs, housing, necessary medical care, and connections to family and community. Stories of in-jail deaths in Hillsborough County reveal an alarming amount of inattention to medical care, abuse from guards, and lack of transparency.

The Hillsborough County sheriff's department also faces criticism for underreporting deaths within county jails. An investigation by the *Tampa Bay Times* uncovered 7 more deaths than the sheriff's department had reported in a short span of time in 2018. Not one of the 13 deaths that happened in 2018 have resulted in charges against the jail guards responsible.

There's an opportunity to reform the bail system in Hillsborough County and to center people most directly impacted as part of that change. With current organizing efforts and policymaker interest in bail reform, Hillsborough County has an opportunity to address inequities and improve health by adopting a more just money bail reform policy.

Hillsborough County has one of the largest jail systems in the US

“We don’t even know the numbers of people — who has been held on bail for how long? That’s not being measured right now. It’s not even a priority for the state or for the county to know those things. So lack of information and transparency is a huge issue.”

— Bernice Lauredan, community organizer in Florida

The average population of people in jail in Hillsborough County as of March 2019 is 2,979, making it one of the largest county jail systems in the country.^{1,2} Between 70% to 78% of that population are people incarcerated pretrial, while others are being detained on ICE holds, awaiting electronic monitoring, participating in in-jail domestic violence or drug treatment programs, or held under the Baker Act.³

Demographically by sex, the Hillsborough County jail population in September 2019 was predominantly (84%) male, though the number of women in jails increased by 383% from 1985 to 2014.^{2,3}

The Baker Act and Basic Ordering Agreements: Two unique features of incarceration in Hillsborough County

Two unique aspects of the Florida legislative landscape that result in jail incarceration are the Baker Act and Basic Ordering Agreements.

- **The Baker Act: Filling a health care gap with involuntary mental health incarcerations.** The Baker Act is a law in Florida (established in 1971) that involuntarily incarcerates people with mental illness for up to 72 hours if they are deemed likely to harm themselves or others without treatment.⁴ In 2015 to 2016, there were 14,935 involuntary examinations under the Baker Act in Hillsborough County, the second highest number in any county in Florida.⁵ Though some argue that the Baker Act is meant to divert people with mental illness from jails, law enforcement officers conducted nearly half of these examinations in Hillsborough County.⁵
- **Basic Ordering Agreements: Collaborating with immigration officials to the detriment of public safety:** Basic Ordering Agreements are formal collaborations between ICE and some county sheriffs that began in Florida in 2018. Under the agreement, ICE will pay sheriffs \$50 for every immigrant they detain for 48 hours after scheduled release and then transfer to ICE custody.⁶ These agreements incentivize local officers to take steps that are unnecessarily punitive to Hillsborough County residents and their families.

1 in 5 people locked up in jail are there for more than 7 days

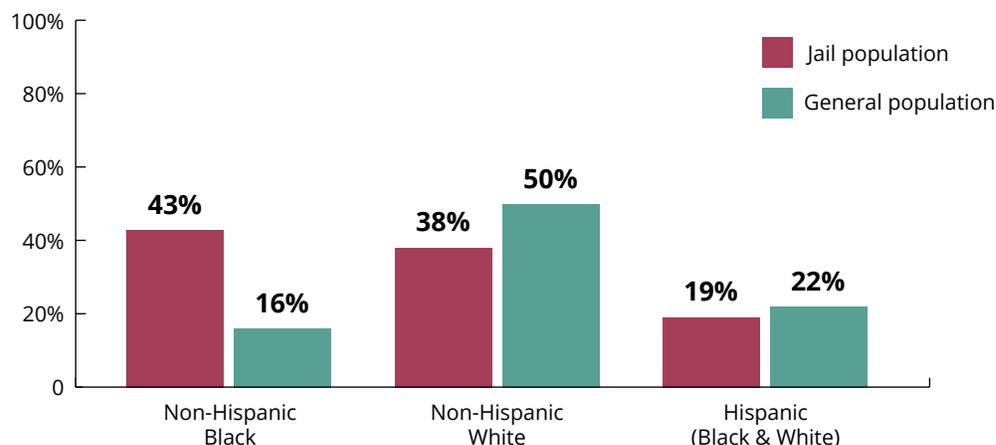
Data from 2014 show that 21% of people in jail in Hillsborough County were there for more than one week, and 9% were there for more than one month before being released — either without charges or having been found innocent.² In September 2019, the longest a person had been in the county jail system was 1,778 days pretrial, though this is not typical.³

The longer a person is incarcerated pretrial, the more likely they are to lose jobs, health care, housing, and family connections — which serves to harm the health of the person incarcerated and their families. Additionally, the longer a person is incarcerated pretrial, the more likely they are to plead guilty, and therefore, the more likely they are to be convicted.⁷

The jail system in Hillsborough County is racially unjust

Due to the criminalization and over-policing of people of color, data show a disproportionate number of people of color in jails in Hillsborough County, compared to the percentage of the general population that are people of color. For instance, while 16% of the general population of Hillsborough County identify as non-Hispanic Black or African American,⁸ 43% of the Hillsborough County jail population are identified as non-Hispanic Black.³ On the other hand, non-Hispanic White people are disproportionately underrepresented, being 50% of the general population⁸ and 38% of the jail population of Hillsborough County.³

Hillsborough County's Jail Population vs. General Population (%)



Because the race/ethnicity categories used by the sheriff's office differ from the categories used by the US Census, the racial inequities in the jail population in Hillsborough County are obscured. Additionally, race and ethnicity are conflated in the data above, meaning that a person who identifies their ethnicity as Latinx¹ might have their racial identity miscategorized (e.g., as Black or White). Among the many harms of this misclassification, researchers don't have good data on how many Latinx people are harmed by pretrial incarceration. It also means that the experiences of people who have multiple marginalized racial/ethnic identities (i.e., someone who identifies as Afro-Latinx) are erased.

1 We use the word Latinx as a gender-neutral alternative to Latino/a, except where we are citing categories assigned by the jail and the US Census. While we use this phrase here, we recognize that the US Latinx population is immensely diverse, with people originating from within the United States, US territories, and North, Central, and South America.

There are no available data for Hillsborough County that offer insight into other groups that are disproportionately represented in jail populations, such as LGBTQ people, people experiencing houselessness, or people experiencing poverty.

Bail amount in Hillsborough County is set by a bail schedule

The bail schedule in Hillsborough County was enacted by the chief judge of the Hillsborough Circuit in 2018 and sets a standard bail amount based on the perceived severity of an alleged offense.⁹ If people are charged with more than one alleged offense, bail is set for each offense.

| Example ^{10,11} | Type of Alleged Offense | Standard Bail Amount |
|---|---|----------------------|
| Disorderly conduct or trespassing | Ordinance violations and second-degree misdemeanors | \$250.00 |
| Theft of property valued at \$100 or more but less than \$750 | First-degree misdemeanors and non-felony DUI cases | \$500.00 |
| Theft of an automobile | Third-degree felony | \$2,000.00 |
| Selling marijuana to a minor | Second-degree felony | \$7,000.00 |
| Aggravated battery of a law enforcement officer | First-degree felony | \$15,000.00 |

In September, data from Hillsborough County jails show bail amounts set at a range of \$50 to \$1,315,000. Still, very few people were in jail on bail amounts under \$500, with only 40 people incarcerated pretrial on a \$250 bail. The median bail amount was \$5,500. A little over 1,200 people were listed as having no bond set at all.³

Pretrial incarceration and money bail harm health

Simply being in jail for any amount of time can cause damage to health via poor environmental conditions, rapid spread of infectious disease, pollutants in the air and water, and the mental health harms of being confined.¹²⁻¹⁴ For those who go into debt to pay money bail, jail fees, or court fees, the financial stress of being in debt harms mental well-being and is associated with higher perceived stress and depression, worse self-reported general health, higher diastolic blood pressure, sleep deprivation, and anxiety.¹⁵

Time in pretrial incarceration can also lead to loss of employment, housing, and community cohesion — which, in turn, harm health.

- **Loss of employment:** Correlates to higher levels of stress, depression, and anxiety, as well as worse self-reported health, more cardiovascular disease, and higher rates of mortality^{16,17}
- **Loss of housing:** Correlates to higher rates of depression, anxiety, psychological distress, and suicide, as well as higher rates of hospitalization, respiratory conditions, and mortality^{18,19}
- **Loss of community cohesion and social support:** Correlates to higher mortality linked to ischemic heart disease, cerebrovascular disease or cancer, higher rates of depression, increased heart rate, and increased blood pressure^{20,21}

For more information on the ways in which pretrial incarceration and money bail harm health, read the full report, *Liberating Our Health: Ending the Harms of Pretrial Incarceration and Money Bail*, at HumanImpact.org/HealthNotBail.

Hillsborough County law enforcement leadership needs to be held accountable to uphold public safety for all

“At least locally, some of the jails are filthy places. I get letters all the time from people in jail, and I commonly read that the toilet seats, if you touch them, it’ll cause some kind of infection. The showers, you have to wear your tennis shoes into the shower otherwise you’ll get an infection on your feet. So they’re just not sanitary places. . . . And it’s kind of built into the Florida punitive mindset of crime and punishment, which is, if you break the law, then we’re going to send you to that place where you get sick.”

— James Michael Shaw, Jr., attorney with the American Civil Liberties Union (ACLU) of Florida

Former Republican governor of Florida Rick Scott appointed Chad Chronister as the sheriff of Hillsborough County in 2017 after former sheriff David Gee retired. Chronister, a colonel at the time, was the interim sheriff until a 2018 election for the position. In 2018, Chronister was the well-funded incumbent, whose political action committee raised over \$1 million. He won the election for an additional two-year term, despite concerns raised by activists and advocates in Hillsborough County.²²

Chronister faced two major criticisms from activists:

- 1. Activists hold concern about Chronister’s lack of transparency on deaths within the Hillsborough County jails.** The discovery that Chronister’s office was misreporting jail deaths came to light with an investigation by the *Tampa Bay Times* in July 2018. The investigation followed the death of 62-year-old Zarah Jackson, found comatose in his cell after he was tackled by a group of guards, put on blood thinners, and left in solitary confinement. While the sheriff’s office only reported 6 deaths in the previous 3 days, the Times uncovered 13 other deaths in that period and 42 deaths over the last decade. Not one of those deaths resulted in charges against the guards in the jails.²² These deaths are a public health crisis that needs to be addressed immediately.
- 2. Only 4 months after he was appointed as sheriff, Chronister was one of 17 sheriffs to agree to a Basic Ordering Agreement with ICE.** The decision was met with protests and resistance. Several months later, in June 2018, a public records request placed by the Southern Poverty Law Center found that the county had not yet executed any orders under the Basic Ordering Agreement with ICE, though the agreement continues to exist.⁶

The particular health harms of pretrial incarceration faced by people who are undocumented, caused by separation of families and fear of deportation, are amplified by the existence of Basic Ordering Agreements. These agreements are especially urgent to oppose in Hillsborough County, a county that includes the Tampa Bay region, where roughly 75,000 people identify as undocumented. Representing 3% of the Tampa Bay population, undocumented people are an essential part of the local community.²³

There is an opportunity for bail reform in Hillsborough County

“People of color could be involved in the process. So, using people’s experiences, their opinions, and ideas to create policy. That would be a great first way to make sure that it’s not harmful.”

—Girseá Martínez-Rosas, doctoral candidate at University of South Florida

Given that a majority of people are in Hillsborough County jails pretrial, bail reform becomes an essential part of addressing inequities, preventing deaths, and improving health. With the election of Andrew Warren as the state attorney in 2016 and his campaign for re-election in 2020, there is a political window for Hillsborough County to see those reforms take place.

In Fall 2018, Warren added his name in support of plaintiffs in a landmark case in Harris County, Texas, about the constitutionality of the money bail system. At the time, Warren commented, “We shouldn’t be spending taxpayer money to lock up people who haven’t been convicted of a crime when they’re not a flight risk or a threat to public safety.”⁹ That lawsuit has since been tentatively settled, meaning that most people with misdemeanor charges in Harris County would be released from jail on their own recognizance, without money bail.²⁴ Warren has said that he supports bail reform in Hillsborough County “in theory,” though significant reform would need to come from the Florida Legislature.⁹

Faith in Florida and others are taking the matter into their own hands

Faith in Florida, a local chapter of the national Faith in Action network, is a coalition of faith-based organizers in Hillsborough County organizing around bail reform. In June 2019, Faith in Florida organized the “Father’s Day Bailout.” Volunteers worked with a lawyer to identify three men who had been in jail pretrial for an extended period of time, with nonviolent misdemeanor charges and bail set at \$250 each. After an initial visit during which volunteers met the three men and found out about their family support, needs for transportation, and commitment to return to court, Faith in Florida bailed them out on the Thursday before Father’s Day. Nanci Palacios, one of the organizers, commented, “We hope we don’t have to do this anymore, at some point. But in the meantime, there are so many people who sit in jail for so long.”²⁵

Next steps to protect health and families in Hillsborough County

1. Center stories of people who are directly impacted

The next steps in creating policy around bail reform need to take into consideration the voices and experiences of those who are most directly impacted by incarceration and deportation. Faith in Florida understands the importance of humanizing all the issues they work on, by sharing the stories of those impacted by issues of mass incarceration or

deportation, and cash bail. Those affected by these issues are more than statistics. They have a human face, and when someone in their family is affected, everyone in their family is affected.

However, the collection of these stories is difficult. People feel ashamed, scared, or like they don't have a story to tell, because they believe they deserve to endure all they've experienced. Some people don't want to share their stories because they don't know how their information could be used, or if speaking about their experience with the criminal legal system could create additional problems for them. Those who are undocumented are afraid they might be deported for sharing their stories. These are all important considerations to keep in mind while centering the voices and experiences of people who are directly impacted.

2. Encourage elected officials, including the state attorney, to implement bail reform

State Attorney Andrew Warren has expressed interest in bail reform in Hillsborough County. Warren must continue to work with organizers in Hillsborough County to craft policy that makes sense for the county context. Once such a policy is crafted and passed, judges in Hillsborough County need to be held accountable for implementing the policy. Constituents of Hillsborough County can demand their elected officials hear their voices and take bail reform seriously.

3. Get involved with Faith in Florida

Until bail reform is passed and liberation is achieved in Hillsborough County, Faith in Florida will continue to organize. Their aim is to end the money bail system and mass incarceration in general, so that people's lives don't continue to be harmed and their families splintered apart because they cannot afford bail.

Faith in Florida is launching the next steps in its campaign to end money bail in January 2020 and asks that people who have seen their family and communities affected by it be part of the conversation. In the spring of 2020, Faith in Florida will fundraise to bail out mothers on Mother's Day to ensure mothers are able to spend that special day with their children. For inquiries, contact Nanci Palacios at (407) 849-5031 or at npalacios@faithinflorida.org.

About this research brief

Human Impact Partners worked closely with Faith in Florida on this resource, building on findings from a research project assessing the racial inequities and the detrimental health impacts of pretrial incarceration and money bail.

Read the full report, *Liberating Our Health: Ending the Harms of Pretrial Incarceration and Money Bail*, online at HumanImpact.org/HealthNotBail

For additional information, contact Christine Mitchell at christine@humanimpact.org.

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