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**Texas DAs and National Experts Challenge Governor Greg Abbott's
Restrictions on Release of Individuals Held Pretrial**
*Amicus Brief Argues Governor's Misguided Order Puts
Communities at Greater Risk of COVID-19 Spread*

Four Texas District Attorneys in some of the state's largest counties, along with national criminal justice organizations, filed an [amicus brief](#) challenging Texas Governor Greg Abbott's executive order restricting judges' ability to release from jail individuals held pretrial and presumed innocent, even as COVID-19 spreads like wildfire through custodial facilities. *Amici* argue that this order limits their ability to protect people's lives – both those who work in jails and those being held in them – and it fundamentally misunderstands the efficacy of money bail. Under the Governor's order, people who pose a danger can still post a monetary bond, while many who are poor and unable to afford bail will languish in jail, where densely populated conditions put them and others at great danger of infection. The order, therefore, risks both public safety and public health.

“As this pandemic began to take shape in mid-March, Texas officials swiftly took action to limit the risk of coronavirus infections in our jails in an effort to save lives,” said **Dallas County District Attorney John Creuzot**, one of the DAs who joined onto the brief. “These are the exact steps that are needed in this time of crisis.”

“Restricting the ability of local judges to release individuals who can safely return to the community threatens to undermine the progress that has been made across the state to reduce jail populations and puts the health and safety of communities across the state at risk,” added **Bexar County District Attorney Joe Gonzales**.

In the brief, *amici* underscore the threat that coronavirus poses within correctional facilities, noting the deaths that have already occurred in facilities in New York City and Cook County, Illinois. Further, they point to other countries such as Britain, France and even Iran that have engaged in large scale releases of incarcerated individuals to reduce the public health risk during this pandemic. Jails across the United States have followed course: Los Angeles has released over a quarter of its jail population and Cleveland reduced its jail population by 50% in just over two weeks.

“Keeping people who pose no serious risk to safety behind bars during this crisis is unconscionable,” said **Miriam Krinsky**, executive director of [Fair and Just Prosecution](#), one of the *amici* on the brief. “As the COVID-19 death toll climbs, we know that an outbreak in jails across the country won't be confined to those who are incarcerated, nor will it stay within those custodial walls. It will spread like wildfire to those who work in these facilities and make its way into our communities. There is no time to waste – to save lives and protect the *entire* community, courts need the discretion to release those who do not pose a serious threat to public safety.”

Amici note that the Governor’s order precludes the release of people arrested and detained even on the most minor charges. If someone has been convicted of any crime of violence *at any point in the past* – no matter how remote in time – and then arrested for marijuana possession or some other minor offense, they become categorically ineligible for pretrial release unless they have the financial wherewithal to post money bail.

“Secured money bail contributes to systemic inequity, simply separating those who have it from those who do not regardless of the charge. It has never been a way to protect public safety. Indeed, money bond has been effective at only one thing – pretrial incarceration that leads to loss of jobs, housing and family stability, and increasing the likelihood of future arrests,” said **Cherise Fanno Burdeen**, with Pretrial Justice Institute, another organization that joined the brief.

In the end, *amici* argue, these restrictions on the discretion of judges to order release when and where appropriate will erode the safety and health of the state’s residents. “Governor Abbott’s order will block local judges, prosecutors, and sheriffs from keeping Texans safe,” explained **Major Neill Franklin (Ret.)**, executive director of the Law Enforcement Action Partnership, another organization that joined the brief as an *amicus*. “The COVID-19 pandemic requires proactive efforts to safely reduce incarceration. Texas DAs have developed commonsense action plans that are now being undermined by the governor. The court should swiftly act to maintain each county’s authority to protect public safety and save lives.”

A copy of the brief is available [here](#).

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Fair and Just Prosecution is a national network of elected prosecutors working towards common-sense, compassionate criminal justice reforms. To learn more about FJP’s work, visit <http://www.fairandjustprosecution.org/> or follow us on Facebook [@FairAndJustProsecution](#).

The Law Enforcement Action Partnership (LEAP) is a nonprofit group of more than 230 law enforcement representatives across the U.S. including police, judges, prosecutors and other criminal justice professionals who use their expertise to advance public safety solutions. For more on LEAP’s work, visit [Just Solutions](#).

The Pretrial Justice Institute is a national nonprofit advancing safe, fair, and equitable pretrial justice policies that honor and protect all people, with the goal of contributing to community well-being. For more information, see pretrial.org and on Twitter at [@Pretrial](#).