

Texas Cash Bail System Ruled Unconstitutional

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The U.S. Court of Appeals for the 5th Circuit has concluded that [Houston's bail system is unconstitutional](#). The decision affirms a district court's findings in a class action lawsuit alleging that Harris County's bail bond practices violated the Due Process & Equal Protection rights of indigent defendants

Houston's Problematic Bail Process

The [court's opinion](#) paints a detailed picture of Harris County's bail practices. The county's court system routinely set secured bail amounts according to a schedule with minimal regard for a defendant's ability to pay.

The results, as found by the district court that issued the preliminary injunction, were stark. Hearings where bail was set & later revised were often delayed or pro forma. Indigent arrestees unable to post bail were effectively detained pretrial with little practical recourse, making them more likely to plead guilty & receive longer sentences. In short, it was a mess.

District Court Enjoined, Fifth Circuit (Mostly) Affirms

The District Court found the county's practices violated the 14th Amendment, specifically depriving indigent defendants of due process, & issued a preliminary injunction requiring the county to modify its bail practices.

That was good, but in the Fifth Circuit's opinion not good enough. In a typical appellate move, court agreed with the district court's factual findings, tweaked its legal reasoning as to constitutional violation, & sent the case back down for the district court to come up with a revised injunction.