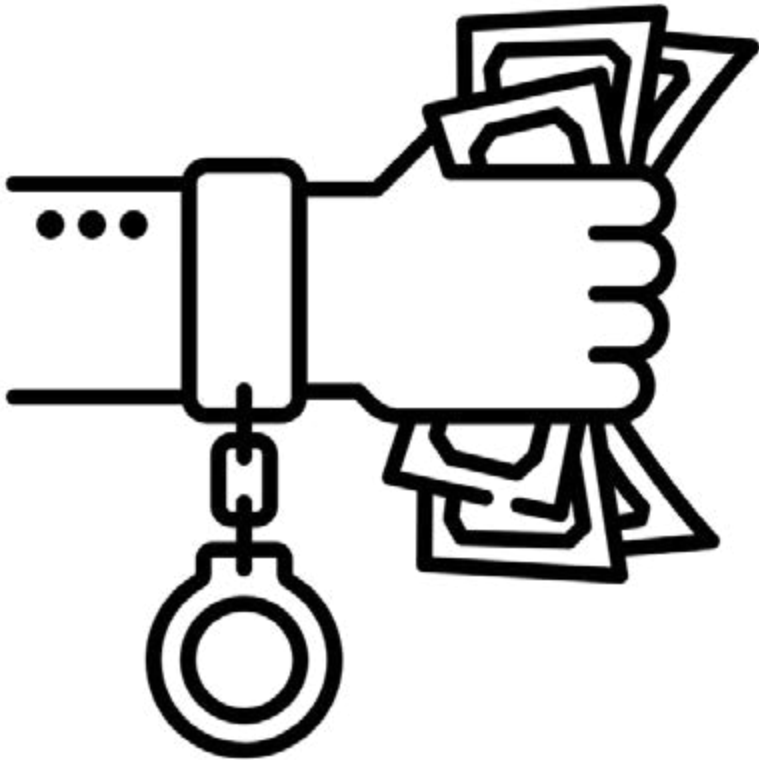


running a bail fund



an introduction

In memory of Bean

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The image used on the front cover is courtesy of Noun Project user mimumi.

What this guide covers — and what it doesn't

This documentation is intended to share knowledge about operating a bail fund to support protestors. While it discusses legal, jail, and prison support, bail is the primary focus. Our experience is around operating a bail fund for protestors arrested at a series of related protests. We are not experienced with running a permanent bail fund for a broader range of arrestees, although much of guide is applicable beyond supporting protestors.

It does not discuss the question of whether posting bail is the best use of community funds, the relative value of protestors remaining in jail to tie up state resources, or other underlying strategy questions. You should have community conversations about these questions **before** reading this documentation and taking action.

This documentation also does not address legal defense strategies for protestors. There have been cases where prosecutors and judges have used the availability of community bail funds to justify higher bails and higher fines, remove public defenders, and deny bail entirely. You should talk to organizers experienced in legal defense in your area as you set up your bail fund.

This documentation is based on experiences from 2020-2022, mostly associated with supporting people arrested during the George Floyd Uprising in Portland, Oregon. We recommend confirming that this information holds true where you are before you take action.

This documentation is created by an organizer who is not a lawyer or an accountant. It's a specific recounting of our experiences with our bail fund. It hasn't been vetted by a lawyer or an accountant.

First steps to setting up a new fund

- Check in with organizations in your area that have historically done bail / jail support. There's a lot of overlapping work that different organizations can do. Some national organizations may have local chapters (such as the National Lawyers Guild and the Anarchist Black Cross), some local groups may have very specific areas they work on (like bail funds set up specifically for BIPOC).
- Decide whose names are going to be visible for this work. Between fundraising and posting bails, y'all will need at least two, preferably three people who can have their names tied to this work in public records. Those folks should avoid being physically present at / limit visible activity connected to the protests as a general rule to maintain access to funds. These people will also be at the greatest risk, especially considering the growing use of RICO charges.
- Set up a separate bank account for this work, along with payment accounts, that don't touch anyone's personal finances. Depending on what corporate structure y'all want to go with, y'all may want to set up a new non-profit corporation before setting up a bank account. Most banks will let you give account access to multiple people. Choose those people carefully: not only will they be able to pull money from the account, but their identities will be available to government representatives.

- Set up a fundraising page. GoFundMe is standard for a lot of reasons. Whatever you put in your fundraising materials will put legally enforceable obligations on how the money is spent! For instance, if you raise money for 'protestors at PSU', using that money for protestors arrested at other sites can open you up to lawsuits or fraud charges.
- Decide how you're going to identify people to post bail for. That could mean setting up a rotation of folks to be on call in case of arrests. Y'all will probably want to have a way for friends and family of anyone arrested to contact you, along the lines of a hotline. Setting policies in advance on which arrestees you'll prioritize in the event of a mass arrest would also be useful.

Security / risks

The risks faced by bail fund organizers can be different than those faced by other organizers. Here are some of the biggest concerns and some of the options for reducing them.

Legal risks to bail funds and the people who run them

While bail work is typically considered legal, state actors are actively working to criminalize bail work. PBS has an article about efforts to do so in Georgia in 2024 that provides examples of legislative efforts, at <https://www.pbs.org/newshour/politics/churches-and-nonprofits-ensnared-in-georgia-push-to-restrict-bail-funds>. In the past, bail fund organizers have face charges based on accusations of fraud and financial mismanagement. As of 2023, state actors are using RICO charges against bail organizers. The ACLU has a write up on how RICO charges were used against Stop Cop City activists at <https://www.aclu.org/news/free-speech/rico-and-domestic-terrorism-charges-against-cop-city-activists-send-a-chilling-message>.

Even if charges don't stick, bail organizers can face

- subpoenas
- arrest
- having personal financial accounts frozen
- other forms of legal intimidation

In order to do this work effectively, organizers need to limit their risks. That means avoiding getting arrested at protests or for other, unrelated organizing work. Keeping records and being transparent about organizational finances is also crucial.

In theory, bail funds may also face punitive measures if they post bail for an arrestee who then fails to appear at future hearings. In such situations in Oregon, the court can demand that whoever paid the security release deposit (which works out to 10% of the bond) pay the full bond (more details at <https://www.courts.oregon.gov/courts/multnomah/payments/Pages/bail.aspx>). In practice, this is avoidable by putting money into an arrestee's account and having them 'self-bail', but it is still a risk.

Running funds through an individual organizer's bank accounts and money transfer apps dramatically increases individual risk. At a bare minimum, that person will likely be expected to pay taxes on the money moved through their account. In the worst cases, those transactions can be used as evidence of fraud and other financial crimes.

Community risks to bail funds and the people who run them

- Posting bail will put both your organizational and personal information into public records. Doxing and direct threats are common, particularly for organizers who are on corporate documents and bank accounts. Take this into consideration when deciding who will take on that work. Lock down your online presence to the greatest extent possible. The EFF's

Surveillance Self-Defense guide is a good starting point. It's at <https://ssd.eff.org/>.

- There will always be community members who don't agree with specific decisions made by the bail fund's organizers. Some of these issues will be brought up in good faith, some not, some by people experiencing a trauma response, some by people looking to promote themselves. Being transparent helps with these issues, but be prepared for call out posts and similar problems, especially if you raise a substantial amount of money.
- Bail fund organizers wind up with a lot of personal information about arrestees. That information makes you a target for bad actors unrelated to the state. Prioritize protecting people's personal information. That includes vetting new organizers before letting them access any information. Use caution with web-based apps — many are not secure, and even those that are will often have standing relationships with law enforcement. Here's an LA Times article about the process Google follows with ICE and other law enforcement organizations: <https://www.latimes.com/business/technology/story/2021-03-24/federal-agencies-subpoena-google-personal-information>.
- Bail fund organizers routinely wind up hearing and seeing traumatizing information, resulting in secondary / vicarious trauma. You need to take regular breaks from this work, as well as practice self-care. PsychCentral has a good introduction to secondary trauma at <https://psychcentral.com/health/secondary-trauma>.

Actually posting bail

Booking and bail proceedings differ dramatically by location. When possible, find someone used to working in that county to collaborate with. The smaller the county, the more complicated the rules tend to be — to the extent that you may only be able to post bail with cash in person during an appointment made in advance. Because we primarily worked with protestors in Multnomah County, Oregon, this section is a case study on our experiences here. You will need to look into how your local jail operates. You should also expect that the policies posted by local law enforcement will not be closely followed and that they may change with no notice.

Oregon is a relatively cheap state to post bail in. Here, we only have to pay 10 percent of the full bond (the amount someone would pay to a bail bond agency in other states). There aren't private bail bonds companies in this state as a result. In comparison, in Washington State, arrestees must either have to pay the full amount or coordinate with a bail bond agency licensed in Washington. More information about Oregon bails is available on the Oregon Judicial Branch's website (<https://www.courts.oregon.gov/courts/multnomah/payments/Pages/bail.aspx>).

In order to limit liability, bail funds in Oregon should provide funds to arrestees so that the arrestee can 'self-bail.' This means that a bail fund will deposit money into the arrestee's 'inmate trust account' (aka commissary account), then jail staff will inform the arrestee the money is available to be used for bail, then the arrestee tells jail staff they're using the money in their account to post bail. It's more of a technical difference in the process than an actual difference in the process, but an important difference just the same.

Because of the self-bail system, Oregon courts do not require affidavits, acknowledgements, or contracts from bail funds in order to accept funds. However, courts in other states can require such paperwork, such as the affidavit required by Chicago courts, which you can find at https://www.nlg.org/wp-content/uploads/2018/07/CCBF-Affidavit-Template_Public-Version.pdf.

Arrest / bail processes

This information is specific to Multnomah County in Oregon (whose website is at <https://www.mcso.us/corrections-facilities-division/jails>). Most Oregon counties follow a similar process; you can find their arrest records and contact information on the relevant county sheriff's website. However, every county and every state does things a little differently – and are known to change things up regularly or even to fail to follow their own rules. Keep notes on tactical changes you see and on individual variations. Those details may be useful to share with media and lawyers, depending on the specific situation.

The process goes like this:

- A person is arrested at a protest. They'll be taken for booking at one of the two Multnomah County jails – usually the Multnomah County Detention Center downtown, but Inverness Jail near the airport is also an option. The booking process can take around 8 hours, although booking officers have lots of options when it comes to speeding up or slowing down the process. 12+ hours is not out of the question.
- During the booking process, their legal name will appear on the MCSO booking information website at <https://apps.mcso.us/paid>. As the booking process proceeds, other personal information may appear,

as well as details about the charges they're facing, any required bail, and whether the person is still in custody, etc. This information is often inaccurate (especially demographic details like race), so don't rely on it.

- Arrestees are fingerprinted and have their identification checked. That information is run against law enforcement databases for outstanding warrants, parole status, and other relevant information. If an arrestee has previous charges in Multnomah County or elsewhere that are pending, or if they are on parole, they will be placed on a county hold. Depending on the situation, they may have their parole revoked, be transferred to another county or even another state, or otherwise be ineligible for bail.
- Arrestees not facing a hold will have an interview with a recognizance committee. They'll be asked questions to assess whether they will show up for hearings and commit additional crimes to determine whether they will be released on their own recognizance. Multnomah County personnel use an evaluation tool that focuses on community connections, drug use, employment, and living arrangements. If they are approved for release (ROR), they will not need to be bailed.
- Depending on the situation, arrestees may be questioned about the details of the situation and their actions. There have been cases where arrestees are unaware / not informed that this sort of questioning is separate from the recognizance interview.
- If an arrestee is approved for release, they may still be several hours from actually being released. The MCSO website may list a person as 'released' several

hours before they're actually released. They will be given a date for an arraignment hearing. A warrant will be issued for their arrest if they do not attend.

- At this point, if an arrestee is not released but does not have a hold listed, they are eligible for bail. Call the bail desk at MCDC to confirm they are eligible for bail and the total amount of their bail. Bails under \$10K can be posted online through Touchpay with a debit / credit card or in person at a Touchpay kiosk with cash or a debit / credit card.
- Once you have posted bail, call the bail desk at MCDC again to inform them that the bail has been posted (they are not automatically notified). The arrestee should then be processed for release, which can take several hours.
- Arrestees facing a hold will have an arraignment hearing, typically the next day. At that point, they may be released, transferred, held, or become bail-eligible.
- During mass arrests, protestors may be arrested, issued a citation, and released without processing. These arrestees will still need to attend an arraignment hearing. A warrant will be issued for their arrest if they do not attend.
- At arraignment hearings, arrestees are formally charged and assigned public defenders. Typically, only pleas of 'not guilty' are allowed at arraignments. You may be able to watch a live stream of the arraignment hearing at <https://www.courts.oregon.gov/courts/multnomah/go/Pages/calendars.aspx>.

When using the MCSO website, it is helpful to have the legal name of the person you are looking for. You can search “Booked Today” and see a list of everyone arrested in the past 24 hours, then review the charges listed for each arrest to find protestors. Their name should be among the list.

Until the booking process is complete, an arrestee cannot be released or bailed. The system will still accept bail funds, but avoid starting the process until you know if an arrestee will be eligible to be bailed.

Variations on Multnomah County's standard process

Arrestees can refuse bail, in which case the bail funds are typically added to their commissary. Commissary funds can be subject to on-going fees and the court has the right to pull money from such accounts for a variety of reasons ranging from court fees to unpaid child support.

Bails over \$10,000 must be paid with a cashier's check delivered in person during business hours. MCSO will call the bank issuing the check for confirmation. There is a minimum turnaround of 2 days for MCSO to process a cashier's check for bail. Processing has been known to take as long as 8 days.

Protestors under the age of 18 will not be listed on MCSO. Typically, they will be released into the custody of their legal guardian without requiring bail or they will be transferred to a juvenile holding facility. These arrestees are among the most difficult to support.

Booking facilities are not typically ADA-accessible. Protestors in wheelchairs or using other mobility aids have a wide range of experiences, from receiving a

citation and not being booked to facing a substantially longer booking process. Removal or damage to mobility aids is common.

Protestors experiencing health issues may be transferred to a hospital or treatment facility, although rarely in a timely fashion. Those arrestees experience mental health crises may be put on extended holds and transferred to Oregon State Hospital or other facilities. Their release is often conditional on a doctor's opinion, rather than bail.

Sometimes, protesters will be arrested after a protest, based on video footage or other evidence. The arrest process will be similar, but people arrested after a protest ends are more likely to face substantial charges and are less likely to eligible for bail.

Some charges on either the federal or state level may go through a grand jury — a secretive process where witnesses are subpoena'd prior to the filing of felony charges. These cases tend to include serious charges that may not be bail-eligible. Specialized legal support is usually necessary in these situations. The CLDC has an explanation of the grand jury process and why activists may resist during the process at <https://cldc.org/grand-jury-interview>.

Touchpay

Multnomah County uses Touchpay for handling both bail and commissary. You'll need the facility number for MCSO (MCSO Facility #297204) when transferring funds to Touchpay. You can use the online portal at <https://www.gtlfsonlinepay.com/portal/> or phone (1-866-232-1899). (Yes, that sketchy looking domain name, gtlfsonlinepay.com, is correct.)

Touchpay is unreliable and difficult to use, but there is no alternative. Touchpay records should not be considered secure / private. When using Touchpay online, take screenshots of payment approval pages in order to document transactions.

Even MCDC's staff hates Touchpay.

It's very easy to break / lose access to a Touchpay account. The following is an incomplete list of problems encountered:

- TouchPay can only accept up to \$2,300 in one transfer. Kiosks and maybe online accounts can't handle more than \$9,999 in a series of transfers. Online accounts have been shut down after sending more than that amount over the course of a few days.
- Folks can only receive two payments to their TouchPay account each week. Need to bail someone a third time in a week or add to their commissary again? They're screwed.
- Make three failed attempts at making payments on a TouchPay account? The account is locked for a week.
- Accounts only need unique email addresses; addresses and credit cards do not need to be unique. However, TouchPay's policies include making multiple accounts as fraudulent activity. That means they can shut down your accounts if they catch on that you've got more than one.
- Touchpay's support will routinely give contradictory information. Support is not offered on weekends, holidays, etc.

Federal arrests

While most of the crimes protestors are arrested for fall under state / local jurisdiction, there are a few that fall under federal jurisdiction. Arrests while protesting at a federal facility are more likely to result in federal charges than arrests elsewhere.

The federal court system and the state court system operate differently. The federal court system does not have cash bail. Instead, the federal court system releases people with specific conditions like not using social media or staying away from federal properties. Sometimes those conditions require some amount of monetary bond as a condition of release.

When someone is arrested by federal authorities (like the US Marshals) and they need to be held in Portland, they are held at MCDC. People held by Multnomah County on behalf of federal agencies will appear on the MCSO website, with the arresting agency listed charges only showing a hold with no bail. They cannot be bailed out through the county jail system. In these situations, MCDC is just a holding facility for federal agencies, with no control over charges or the bail process. People arrested on federal charges go through a probable cause hearing within 48 hours of their arrest. At this hearing, the judge can either release them on conditions or continue to hold them in detention.

Managing mass arrests

Mass arrests can be challenging to respond to. Preparing in advance, at least by discussing basic policies, will make a chaotic situation more manageable.

Come up with a triage system in advance to decide the order in which to post bails. Priorities should include arrestees most likely to face increased risks in a jail, based on factors like:

- Race
- Gender
- Disabilities (especially those that increase risks from COVID or require regular medication)

The reality is that prioritization is rarely that clear: factors like available funds and bail size make the decision harder, as do dealing with multiple protests spread out over time. But it's often pretty clear which case you should work on next – whoever is currently facing the most danger.

You also need to discuss a policy on bailing out known abusers. Some community members will not support doing so. However, bailing them out is best from a strictly practical perspective. Opting to not bail a protestor because of their behavior outside of that protest is handing the prosecutor a cooperating witness, especially if they notice your organization bailing other protestors.

Once arrests start, you'll want to call the jail records desk at MCDC regularly about individual arrestees. While there's not data about individual arrests on this level, anecdotes suggest that processing goes smoother when someone (politely!) calls and checks on individuals.

In order to avoid irritating staff, ask about only one or two people per call and switch up who is calling. The staff will be busy and cranky no matter what you do, but don't give

them excuses to take out issues on folks going through booking. Try not to call about the same person more than once every two hours, but continue calling until they're marked for release on the MCSO bookings website. If possible, confirm that the person has actually been released – on the ground jail support can be helpful with this sort of confirmation.

This information is theoretically on the MCSO website, but is routinely inaccurate. MCDC's jail records desk is also known to give misleading and incorrect information, but it is more reliable than the website.

Here's a script you can follow:

You: Hello, I'm calling to check the custody status / bail amount of an individual / some individuals.

MCDC Staff: Okay, what's their last name?

You: Smith. S-M-I-T-H. John

They'll probably ask for spelling, so it's easier to just do it from the start.

MCDC Staff: This person is / isn't in custody.

Alternatively, sometimes they say the name isn't in the system.

Either double check the spelling (depending on the time of day the building can be really loud) or use their SWIS ID (which can be found on the MCSO site).

If the person is in custody,

You: Do they have any parole violations or charges that would prevent them from being released on bail?

and then,

You: Can I confirm that their bail amount is x?

If the person is not in custody,

You: Were they released of their own recognizance? What is their bail amount?

Repeat with additional names or end the call.

Covering costs other than bail

Depending on how much money your organization has on hand and how those funds can be used, you may choose to cover costs associated with arrests beyond bail. Those include but are not limited to:

- Legal fees — To fight a case in Oregon, even one with clear evidence demonstrating a protestor's innocence, can cost anywhere between a few thousand dollars and more than \$50,000. While the state has an obligation to provide a public defender, the reality is that Oregon has maybe a third of the public defenders necessary, so most arrestees will need private representation. Prices are continuing to increase due to the shortage. The Oregon Capital Chronicle has an article that explains the situation as of late 2024 at <https://oregoncapitalchronicle.com/2024/10/02/after-reforms-oregon-still-struggles-with-shortage-of-public-defenders/>.
- Replacing personal possessions — Law enforcement officers routinely hold personal possessions (cell phones, car and house keys, personal identification, medications, etc.) as evidence. While there are some regulations intended to limit this behavior, those regulations seem to be regularly ignored.
- Commissary and phone funds — While protestors are incarcerated, commissary and phone funds are necessary to handle basic needs, stay in contact with

support networks, etc. Especially given that some protestors may not be eligible for bail, these funds can be crucial.

Avoid covering personal expenses of protestors (such as lost wages) or paying money directly to protestors (rather than to lawyers and other providers) due to the IRS private benefit prohibition for non-profits. The Non-Profit Law Blog has an explanation of the private benefit prohibition at <https://nonprofitlawblog.com/private-benefit-rules-part-i-private-benefit-doctrine/>.

What happens to bail money

Bail fund organizers should not expect to receive back funds paid to the state for bail.

In the state of Oregon, bail money is returned to the person who was arrested, no matter who actually posted the bail. While bail funds can request that protestors donate that money back to the bail fund, only a small percentage of people will do so.

In addition to the payment processing fees charged when bail is paid, the court keeps an additional 15% of all bails returned. Details are available at <https://www.courts.oregon.gov/courts/multnomah/payments/Pages/bail.aspx>.

The state has no obligation to return funds in a timely manner. As of 2024, much of the bail money paid in 2020 is still in the state's hands: in any situation where the district attorney chose to 'no complaint' / not pursue charges (which is legally distinct from dropping charges), the state keeps bail money until the statute of limitations expires. This tactic also lets a district attorney announce

that they're not prosecuting protestors, while still being able to threaten protestors with legal action when there's less media attention.

Advance planning for protests and other actions

Few protestors expect to get arrested, but bail work is easier if they are prepared for such eventualities. Where possible, encourage protestors to create an arrest / custody support plan and share it with trusted connections who won't be at the same events. Those connections can, in turn, share that information with a bail fund if needed. Bail fund organizers may also want to create their own plans, just in case. The questions below are especially useful to include in an arrest plan.

- What is your legal name and date of birth? What name do you use in connection to protesting or organizing? Have you legally changed your name or gender?
- Who is empowered to make legal, financial, or health decisions for you? (Unless you've signed a power of attorney, your spouse, parent, or another close biological relative has this power.)
- Do you face higher risks in jail because of your identity (gender, race, disability, etc.)?
- What do you and your supporters need to know about this policy in order for you to be safe while in custody?
- Do you take daily medicines? What are they? What is the plan for getting them to the jail and making sure you get them?

- Do you have any specific medical conditions like diabetes, epilepsy, depression, etc that the jail needs to know about? Do you want the jail to know about your specific conditions? If yes, what is your plan for letting this be known?
- Who do you want the jail and your lawyer to notify if an emergency situation comes up?
- Do you have children, pets, plants, family or friends that need taken care of while you are inside? What kind of care do they need? Be specific — how often do they need help, when, what do they need, etc.
- Who has a spare key to your house?
- Who has a spare key to your car/bike lock and can move it somewhere safe if needed? Where should it be moved to?
- What bills do you pay and when are they due? How will these be paid and who will pay them? (Do you need to give money to someone now?)
- Who has contact info for your work? What do you want your work told? Who will contact your work?
- Who in your family should be contacted? What do you want them to know? Who has contact info for them? Who can communicate with them?
- Which of your friends should be contacted? What do you want them to know? Who has contact info for them? Who can communicate with them?
- Who can call you regularly?

- Who can write to you regularly?
- Do you want to be bailed out? If bail funds are limited, are you able to wait to be bailed?

Organizational structures / logistics

Risk assessment and reduction

As you're deciding who to create a bail fund with, consider how much risk they may face from online harassment. Folks who may not be a good fit for the 'official' organizer of a campaign include those who

- have jobs that do not support political choices or that could be terminated for publicly sharing political views,
- have younger children who are hard to adequately protect from online harassment, or
- have a high likelihood of getting arrested at a protest.

Anyone considering creating a bail fundraiser should take the time to secure personal information online before promoting such a fundraiser online. Equality Labs offers an in-depth guide for activists concerned about online harassment at <https://medium.com/@EqualityLabs/anti-doxing-guide-for-activists-facing-attacks-from-the-alt-right-ec6c290f543c>, and the EFF offers a variety of tools for locking down your online presence at <https://ssd.eff.org/>.

Of course, you should have co-organizers and team members beyond those folks who are publicly visible. Find folks with as wide a variety of experience as possible. In particular, gather folks who have subject

matter expertise to catch potential issues, like high health risks, or identify defendants who have a particularly hard time accessing bail funds.

Vetting these people is an important way to reduce risks, both in terms of access to funds and to arrestees' personal information. A good vetting process includes, at minimum:

- an interview with the person in question about why they want to work on a bail fund (the exact answer may be less important than the fact that they have an answer at all)
- a review of their social media and search results for their name (this is one of the few types of organizing knowing your comrades' legal identities can be important)
- a check in with trusted individuals and groups in the area around any concerns

Non-profit corporations and other structural options

Prioritize finding an established organization to work with if you aren't already working with an organization that will handle funds for your bail fundraiser. Ideally you'll be able to work with an existing non-profit structure to handle money. While legally you can use business structures such as LLCs, doing so means dealing with a level of taxes and administrative details you may not have capacity for. You may also face heavier scrutiny if you're running funds through a business and you appear to make a profit.

Your best bet is working with a local organization that is already focusing on issues around incarceration. If there aren't any such organizations available, the next best option is to check for local non-profits that act as fiscal sponsors. Fiscal sponsors essentially let other organizations borrow their non-profit status in exchange for a percentage of all funds raised. Nolo has more information at <https://www.nolo.com/legal-encyclopedia/the-pros-cons-fiscal-sponsor-nonprofits.html>. Some fiscal sponsors won't work with bail funds because of the legal risks involved. The Fiscal Sponsor Directory maintains a list of non-profits willing to act as fiscal sponsors at <https://fiscalsponsordirectory.org/>. Each fiscal sponsor sets their own policies about money management, so make sure to get a good sense of those processes before agreeing to a financial relationship.

If you're having difficulty finding an organization to work with, consider reaching out the nearest National Lawyers Guild chapter. There's a list of NLG chapter contacts at <https://www.nlg.org/chapters/>. While the NLG does not handle bail operations due to legal constraints on lawyers, they usually have a good sense of other organizations working on similar issues in the area.

Starting an entirely new non-profit (or any other) at the same time as starting a new bail fund should be your last resort. It will require time and resources, both of which tend to be in short supply when launching a new bail fund. That said, you may not have another option, so here's what you need to know.

You can do the preliminary paperwork for creating a new non-profit relatively quickly and cheaply through online tools like Legal Zoom(<https://www.legalzoom.com/marketing/business-formation/nonprofit>). Getting tax-exempt status from the IRS, however, requires

a minimum of two weeks and can take months for processing. More details are available at <https://www.boardeffect.com/blog/how-long-does-it-take-to-get-501c3-status-from-the-irs/>. Information on the Oregon non-profit process specifically is available at <https://nonprofitoregon.org/wp-content/uploads/2024/01/NAO-Guide-to-Starting-a-Nonprofit-in-Oregon.pdf>.

The most common type of non-profit in the US is a 501(c)(3), which can accept tax-deductible donations. These are the cheapest to create and maintain. However, there are other non-profit structures which can be better suited to bail funds, if you have the capacity to maintain a more complicated corporate structure. Read up on those structures at <https://www.charitynavigator.org/donor-basics/giving-101/types-of-nonprofits/?bay=content.view&cpid=1559>.

A 501(c)4 has more freedom to spend money in ways that might be considered “political,” but can't offer tax deductions for donations. If you have the option to work with a 501(c)4 in operating your bail fund, you may be able to spend money more easily than at another type of nonprofit. However, platforms like GoFundMe, Venmo, and CashApp don't have documentation for non-profits other than 501(c)(3)s. You'll find yourself explaining a lot that, for their purposes, they should treat a 501(c)(4) like a 501(c)(3).

No matter what structure you use, you'll need to file taxes on the money raised. Provided you get approved for non-profit status, you won't need to pay taxes on those funds, but the paperwork may require an accountant, which will likely cost between \$2K and \$5K, depending on the amount raised and resulting complexity of

the organization's taxes. You may be able to find an accountant will to do the work pro bono, but you'll want to start looking for that kind of help as early as possible.

At least two people will need to have their legal names associated with a non-profit to register it with the state. These names will be in the public record. Officially, you'll also need a board of directors, but organizations have more flexibility to define what their board looks like, what powers members have, and how board members' information is managed.

Bank account

Having a bank account used only by the bail fund is important to minimize damage that can occur if that account is frozen. **AVOID USING PERSONAL BANK ACCOUNTS FOR THIS WORK!** While some banks offer non-profit-specific accounts, a business bank account will meet the requirements of most non-profits.

To set up a new bank account, you'll likely need signed meeting minutes demonstrating that the organization's board has voted to set up a bank account and has voted on which members will have access to that bank account. More details on the process are available at <https://npcrowd.com/open-a-nonprofit-bank-account/>.

Most banks have a minimum required initial deposit for opening an account.

Most of the banking needs faced by a bail fund are relatively typical. However, there are a few things that will make your work easier:

- The more members of the organization you can put on the bank account means the more cards you'll

have to use with Touchpay! You want at least two debit cards and can benefit from having more, if you have more vetted members comfortable having their names tied to the organization.

- If you have enough vetted members to be selective, think about who is available during business hours when choosing who will be on the account. You may also want to think about which members live and work near the bank's branches.
- Ask for a transaction limit that's at least as high as the transaction limit on Touchpay or any other systems you have to interact with.
- Get to know the specific banker in charge of your organization's account. Depending on what happens, you may need cashiers checks on short notice, deal with fraudulent attempts to access your accounts, or other problems that banking staff can handle faster when they know and like you.

Administrative support

If you raise more than \$10K, you'll almost certainly need administrative support – specifically an accountant and a lawyer. Hopefully, you'll only need to ask your lawyer questions to make sure you're keeping everything legal, but in the event of a problem, having a lawyer already familiar with your work can minimize risks.

Accountants are especially important for tax preparation. Non-profit tax returns get more complex as the amount of money you raise goes up. Unless you have a team member who already does taxes for a non-profit, you'll likely need outside help.

Record keeping

While any non-profit has a legal obligation to maintain detailed financial records, bail funds need to consider additional factors when it comes to record keeping.

First, due to potential issues with law enforcement, a bail fund needs to maintain detailed records to demonstrate that they are not violating any laws and to prevent accounts being frozen. While there have been cases where records were not enough to prevent law enforcement actions, they are crucial to reducing the risk and to addressing those issues when they arise. If a prosecutor is trying to make a fraud charge stick, being able to account for every dollar makes legal defense easier.

Second, bail funds need financial transparency in order to maintain trust with community members contributing money. Regularly reporting to the community how money is spent is crucial.

However, these two factors require different sorts of records. For transparency, you need to be able to explain where money went while still protecting the privacy of the protestors you're supporting. In practice, this can look like a spreadsheet with totals paid to the courts and other organizations, but with all protestors' information redacted. Numbers can be estimated or rounded to make data a little harder to connect back to an individual.

Because the courts will have access to their own records on what bails a fund may have paid, as well as legal tools to gather the organization's financial tools, it's good to stick to standard bookkeeping practices, including

noting who individual payments benefit. Using normal bookkeeping software or a more detailed spreadsheet are typically the easiest options.

Community care

Unless you're working with an established group you've been organizing with long-term, you'll likely need to have some conversations about how you want to work with one another. Having those conversations can be tough, especially if you're in the middle of a situation where you don't feel like you can prioritize anything except posting bails. But not having these conversations can lead to problems later on, which can turn into situations where you can't post bail or you're facing increased personal risk. Here are questions we consider crucial to discuss as early as possible:

- What are your goals in this work?
- What is your decision-making process?
- How do you handle disagreements?
- What communication channels will you use? How will you ensure that everyone who needs access to information gets it?
- What information will you make available to people outside the group?
- How will you enable people take time off from this work?
- What resources will you need to stay healthy or heal from doing this work?

- How will you handle accessibility needs?
- How much work is each person expected to handle? How do you handle someone who has taken on too much?
- How and when will you recruit more members to your group?
- How will you reflect on the lessons you learn in this process? How will you share your expertise with other organizers after the fact?

Bail work attracts people with a lot of different political backgrounds, as well as a wide variety of lived experience. Make a point of talking through any assumptions about the work you're doing. One common assumption you may need to unpack is that the group handling bail support should be the same group that's handling jail support, as well as legal support. While local circumstances can force one group into taking on multiple responsibilities, the best practice is to limit your group to handling one of those responsibilities. Let other people take on jail and legal support work. Limiting your organization's scope will help with issues like burn out, as well as improving the whole community's ability to respond to state actions.

We saw a lot of our team burn out while working on the bail fund. We had to get used to people cycling in and out of our group based on their capacity. And, as our work wound down, we realized most members of the group needed a long time off from organizing. Reflecting on the work we did and sharing the lessons we learned had to wait longer than we would have liked. But taking time to

understand what you've done is an important step, and one that will make this kind of organizing a little easier in the future.

Technical tools

Your options for tools depend on how many protestors you're supporting, as well as what resources you have in your community.

Where possible, stick to secure systems, even if they don't have all the features you'd like to manage this information. It's very possible to wind up with information that could affect a protestor's legal defense, so you want to minimize the accessibility of all information to anyone outside the bail fund. No one wants to be that person who accidentally shared a Google spreadsheet outside of a group!

If you're supporting a short list (up to 50ish) protestors, you may be able to just use a basic spreadsheet to coordinate posting bails and any further support work.

For larger numbers of protestors, you'll need something more robust and secure. If you can recruit team members who have technical skills to set up a private documents server or web app, you may be able to automate certain parts of the process of finding and supporting protestors.

Fundraising

Online campaigns are often the easiest way to raise bail funds. The information in this section is geared towards setting up a fundraising campaign within an existing system, like GoFundMe. Provided your organization has a bank account in place, using other fundraising strategies in addition makes sense.

Setting up a campaign

During the setup and verification processes used by most payment processors and fundraising platforms, you'll need to provide standard financial information. You'll also need to be able to answer questions about your campaign. Pull all this information together in advance in one place. Being able to copy and paste everything from one centralized secure location makes everything easier.

Here's what information you'll want to have on hand:

Organizational information from the legal entity that will handle funds

- Legal name of the person who will be the main point of contact
- Tax ID number
- Type of organization
- Contact information
- Mailing address
- Phone number

- Ownership records for anyone with a stake of 25% or more in the organization (if you're using a for-profit corporate structure)
- Record of registration, such as articles of incorporation
- Banking
- Bank name
- Routing information
- Account number
- PDF of a bank statement (which includes the banks logo)

Primary Point of Contact

- Legal name
- Social Security number
- Identity record, such as a driver's license or passport

Fundraiser details

- Target amount to raise
- Bail priorities
- Plan for excess funds

Fundraiser details

Setting a fundraising goal based on a clear budget while in the middle of an on-going series of protests is impossible. There are just too many variables in play. Instead, a common strategy is to set a first fundraising goal based on what you're confident that you can raise over the course of 48 hours, typically in the range of \$5K to \$10K. Increase goals as you meet them, building momentum relatively quickly. Using meaningful numbers, like \$1,312, can be a way to get more engagement with your campaign.

You also need a plan for excess funds, whether or not you expect to get them — something you can clearly do, not an optimistic idea. Practically speaking, bail funds can plan to cover bail and legal expenses locally, then disburse excess funds to bail funds in other cities and other organizations supporting protestors who are incarcerated. In Portland, having this language in fundraising materials allows a Portland-based bail fund with its larger fundraising base to hand funds off to bail funds in Eugene, Salem, and other nearby cities where fundraising is much harder.

Legal expenses can be a broad category, as can supporting protestors who are incarcerated. In the event you have spare funds, even paying part of a protestor's fine or making small grants to groups like Books to Prisoners can have a huge impact on how long protestors can remain active.

Setting a time limit on how long you'll post bails or cover any related fees is crucial. For a single day protest, you want to limit your fund's work to related arrests within a set number of months (3-12). Any time limit longer than a year is difficult to manage in terms of logistics.

While it may take a while for all cases to make it through the judicial system, being as transparent as possible about these questions can ensure donors trust your fund enough to contribute.

GoFundMe specifics

There are a variety of fundraising platforms out there, but GoFundMe is a reasonable default if you don't have a specific reason to use a different platform. It's a good choice for two reasons: First, you want a crowdfunding platform donors already trust and know how to use. Second, GoFundMe's fees, which are listed at <https://www.gofundme.com/c/pricing>, are lower than most fundraising platforms with similar capabilities: 2.9% of donations, plus 30 cents per transaction. Those fees are actually the standard credit card processing fee charged by GoFundMe's payment processor — GoFundMe does not charge a platform fee. In comparison, most other crowdfunding platforms charge that standard payment processing fee as well as take an additional platform fee that can go as high as an additional 8%. Instead, GoFundMe's money comes from asking every donor to tack on an additional percentage to their donation as a sort of pay-what-you-want platform fee.

Most of the advice in this guide applies to all crowdfunding sites, but be aware that some details (such as verification processes) can vary.

Teams

One GoFundMe section to carefully consider is your 'team'. GoFundMe requires a designated 'organizer' for the campaign. This person is the main point of contact; changing this organizer is non-trivial. The organizer

has access to features like controlling withdrawals. All messages will go to the email account associated with this individual.

You can also add ‘team members,’ who can post updates but who can’t modify the campaign otherwise. Anyone on a team is visible and should assume bad actors may try doxing or harassment. Despite this risk, having at least one team member listed is a good idea. At the very least, if the ‘organizer’ needs to take a day off, a ‘team member’ can step in to write updates. And if something happens to the primary organizer, you're more likely to retain control of the campaign.

Stories

The most important part of your crowdfunding campaign is the ‘story’ (GoFundMe’s label). It’s your explanation of what’s going on and why you need funds. This is where you establish that your cause is worthy and that you will handle funds correctly.

Start with a straightforward explanation of who is in jail, why they’re there, and what you’re going to do about the situation once you have money in hand.

Topics worth discussing:

- **Priorities** — You’ll almost certainly get questions about who you’re bailing out and in what order. Sharing your priorities will cut down on (but not eliminate) those questions.
- **Coverage** — Describe what expenses you’ll cover for protestors. The phrase “bail and legal fees” can cover a lot of these expenses — including but not limited

to bail, lawyers' fees, fines, and court clothes. You'll also want to be clear about what any potential excess funds may be used for.

- Contact information — Tell people how to get in touch with you to access bail funds. This contact method may be subjected to spam campaigns, so don't use your primary / only contact method here. At the very least, start a new email account that you can forward to your organization's main email account.
- Transparency — Given that you're working with community funds, providing transparency about how those funds are spent is important.
- Anonymity — Because some bad actors scrape GoFundMe contributors and use that information maliciously, encourage donors not to list their real name when donating.

While you can update your campaign in the future, remember that people are giving to your campaign based on whatever is posted when they make their donation. If you promise all funds will be used for a specific purpose, you likely have a legal obligation to carry through — even if you change the campaign in the future.

Verification

The hardest part of creating a crowdfunding campaign is often the verification processes. You'll go through two separate verification processes when running a crowdfunding campaign: the GoFundMe verification and the payment processor verification. Each theoretically takes 24 hours if everything goes perfectly, though no one has a perfect experience with these verifications.

Two to four weeks is a common timeline, during which you will not be able to withdraw funds from the campaign.

Changing any of your financial information during the verification process will kick you back to the beginning of the process. Don't change anything after verification starts if you can avoid it. Posting updates is fine, but treat the rest of the system with caution.

Be prepared to advocate for your campaign to customer service representatives. Follow up on a daily basis (or even more often, if you have capacity) and ask questions. The squeaky wheel gets the grease at GoFundMe.

Withdrawals

Once your account is verified by both the crowdfunding platform and the payment processor, you'll be able to make your first withdrawal. Depending on how the support process goes, the first withdrawal may be automatically started without you needing to take any action.

GoFundMe uses the ACH system to directly deposit funds into your bank account. ACH transfers typically take two to five days. It's an older system and does not make instantaneous transfers.

If you're making a first withdrawal over \$5,000, let your bank know to expect the transfer once the withdrawal starts. Depending on your typical transactions at the bank, this may be a good time to raise spending limits to help you pay for larger bills.

Promotion

Promoting a crowdfunding campaign is a matter of contacting everyone you know and asking them to donate, then contacting them again and asking them to share the campaign. Then repeat.

Start with folks you know well. If you can build momentum, you'll be able to ask for bigger donations from folks who you don't know as well using what you've already raised as a sort-of proof of your trustworthiness.

Update your GoFundMe regularly. The site includes a feature where you can add news without changing the body of the campaign's story. You can choose to have those updates automatically emailed to campaign supporters as well as pushed out to social media platforms. Especially while protests are ongoing, updating on a daily basis helps remind folks to keep supporting your effort, particularly if you find that you need to raise your goal to meet your community's needs.

Be as transparent as possible in your updates including when you expect to receive funds from GoFundMe. People have lots of questions about how the bail process works and the more information you give them, the more supportive they'll be.

Getting Help

GoFundMe only offers support via email (though nudging GoFundMe on social media or through individual contacts may help speed up a support request). Furthermore, customer support representatives don't work on the weekends. We absolutely support workers taking time off, but our lives would be easier if GoFundMe hired additional weekend staff, at least during crises.

Don't be afraid to message the support team 'too often.' Since support emails are the main method of communication to GoFundMe, there's really no such thing as 'too often.'

Cash / direct donations

Knowing that GoFundMe takes at least a little while to start transferring funds to recipients, you'll probably need other funds to start the bail process. Those funds included

- organizational cash on hand
- loans to the organization from members
- money from other organizations
- cash and direct transfers from folks comfortable donating outside of the GoFundMe

Not all communities have members with liquid savings — Portland is lucky in that some folks who capitalism rewards particularly well have historically been willing to make direct donations.

Where possible, using cash and checks keeps payment processing fees to a minimum. Keep good records of these transactions, however — someone handing you a wad of cash with no paperwork can be a good way to get hit with charges of your own.

For direct transfers, Cash App and Venmo are common. They (along with other transfer apps) have some drawbacks, but are often the easiest options for donors. Your organization will need a business account (the

main option available to nonprofits) for each app you accept funds through, which will require the same organizational information listed above for setting up a GoFundMe.

Using a personal account is strongly discouraged — it's not uncommon to lose access to these accounts, along with the funds in them. Depending on the situation, someone using their personal account may lose the ability to use these transfer apps permanently or face legal issues.

One drawback to these apps is that they each have their own transfer limits and costs. In some cases, you can contact support and request that your limits are raised, but you'll still likely face a hard limit at \$10K due to banking regulations.

No matter what apps you use for direct transfers (or if you use cash), keep detailed records about these funds and include them in your transparency report.

Media

Many journalists look for stories to provide context to protests, so don't be surprised if a journalist reaches out to you with questions based on your GoFundMe campaign. Be choosy about which journalists you work with — some may have agendas other than what you'd assume. When choosing who to respond to, consider prioritizing local media first (especially media that is locally or cooperatively-owned). Their audience has a clear stake in local protests, making them exactly the type of potential donors you want to reach.

Write out talking points in advance and stick to them throughout the interview, no matter what the journalist asks about. Key talking points to have in place include

- organization background info
- what the money will be used for
- how it will be disbursed

Don't talk about the parts of the work you don't know – if you're working with other organizations, refer questions to those organizations. Don't talk about who is organizing protests, don't give your opinions on the protests, and don't go off those talking points. And when your organization isn't fundraising, consider not talking to media at all.

Conclusion

Building a bail fund is hard work, but doable for a dedicated group of people. It's important work right now. Hopefully, this guide will make that work a little easier.

Please remember, though, that this guide is just a starting point. Just reading it doesn't give you magical bail-posting powers. To build a bail fund, you need people. Find your team, your comrades, your community. You may even find people who have already done bail work in your area, who can help you put together a fund that meets your local needs far better than reading about our experiences. As long as you and your comrades are committed to the work, you can figure out the details.

The only other advice we can offer is to start now. The sooner you start talking to each other about this work, the better equipped you'll be for whatever the future brings.