Written Public Comments to the Illinois Supreme Court Commission on Pretrial Practices - July 2019

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Note: A group submission with multiple exhibits is available in a separate document due to length.

The Collaboration for Justice

750 North Lake Shore Drive, Fourth Floor
Chicago, Illinois 60611
Telephone: (312) 988-6565 Fax (312) 397-1338
E-mail: caffj@chicagoappleseed.org Website: www.chicagoappleseed.org

Testimony of the Criminal Justice Advisory Committee of The Collaboration for Justice to the Supreme Court Commission on Pretrial Practices

June 17, 2019

Thank you for the opportunity to comment publicly on the work of the Supreme Court Commission on Pretrial Practices. The Criminal Justice Advisory Committee of Chicago Council of Lawyers/Chicago Appleseed ("CJAC") applauds the intentions and mission of the Commission and embraces the effort to create high functioning, evidence-based pretrial services agencies throughout Illinois.

We would like to focus on the part of the Supreme Court's Order establishing the Commission that seeks an "***adequately-resourced*** system of pretrial services."

CJAC has been active in the Coalition to End Money Bond, and supported the passage of the Bail Reform Act of 2017. CJAC also has been involved in efforts to overhaul Illinois' byzantine system of criminal justice fines, fees and costs (collectively, "court assessments"), which disproportionately are imposed on the poorest litigants and criminal defendants. We strongly supported the 2018 Criminal and Traffic Assessment Act.

In our experience, one of the largest stumbling blocks to criminal justice reforms in our state has been financial. Specifically, the criminal justice system and court clerks of many counties in Illinois depend heavily upon funding generated by D-bonds and court assessments. As you know, state law allows court clerks to retain an administrative fee of 10% of the bail amount (capped at $100 in Cook County but not elsewhere). In addition, many defendants are charged fees for electronic monitoring, supervision, or other mandated conditions while on pre-trial release. These court assessments may impose large burdens upon defendants, as CJAC's research has shown. While it is difficult to obtain data concerning the percentage of court budgets supported by bond fees and court assessments, court clerks in many counties have stated publicly and privately that they depend upon this revenue. Stakeholders in many Illinois counties understandably resist reforms that diminish the burden on litigants without providing replacement sources of funding.

Moreover, the interests of all stakeholders are not necessarily aligned. For example, reducing the population of incarcerated pre-trial detainees should free money that otherwise would be spent on jails to be spent elsewhere in the criminal justice system, but sheriff's departments and court clerks may have separate budgets and do not consider those dollars fungible.

We would applaud a statement of principle from the Commission that money bond should be eliminated in Illinois. We also would endorse a statement from the Commission that mandatory pre-trial supervision, if it is imposed, should not burden defendants with additional costs. But we believe that proposed legislation addressing bond and other pretrial practices will have a better chance of success if it specifies replacement funding mechanisms. Otherwise, we fear, the admirable goals of creating a more equitable and research-based pretrial system may stumble over the practical realities of operating and funding court systems statewide. Thus we urge the

Commission not to simply leave it up to the legislature to reach a compromise on funding. We urge the Commission to directly address funding in its report, and to specify that dollars saved in one area -- for example, county jails -- should be earmarked for related services -- for example, pretrial supervision and alternatives to incarceration.

TO: Illinois Supreme Court Commission on Pretrial Practices
FROM: Access Living of Metropolitan Chicago
SUBJECT: Impact of Pretrial Detention Practices on People with Disabilities
DATE: June 28, 2019

We at Access Living are pleased to take this opportunity to provide input to the Commission on the impact of pretrial detention and cash bail practices on people with disabilities.

As background to our perspective, Access Living is the Center for Independent Living (CIL) serving people with disabilities living in Chicago since 1980. A CIL is the federally designated term for a nonprofit whose staff and board are comprised of a majority of people with self-identified disabilities, provided core services including peer support, independent living services, advocacy, information and referral, and transition to community integrated living for youth and residents of institutions. We work to foster an inclusive society enabling Chicagoans with disabilities to live fully-engaged and self-directed lives in their homes and communities. Access Living has a well-established reputation as not only a national but a global leader in transforming society's conversations about people with disabilities and expanding civil rights. In my role at Access Living, I serve as the Disability and Incarceration Policy Analyst on a planning grant project funded by the MacArthur Foundation's Safety and Justice Challenge. I research and analyze how the criminal justice system impacts people with disabilities, with a particular focus on reducing jail incarceration.

Over the last 39 years, a number of the people we support through services and advocacy have also been involved with the Cook County criminal justice system. For this group of community members, self-determination and empowerment are made all that much harder because their disability needs were often neglected or completely overlooked while they were interacting with the criminal justice system. Time and again, we have been made aware of situations where people with disabilities would have benefited from supports and diversion rather than incarceration. We believe it is our responsibility to be part of the solution to reduce incarceration in our community through empowering leaders with disabilities to share their knowledge and input.

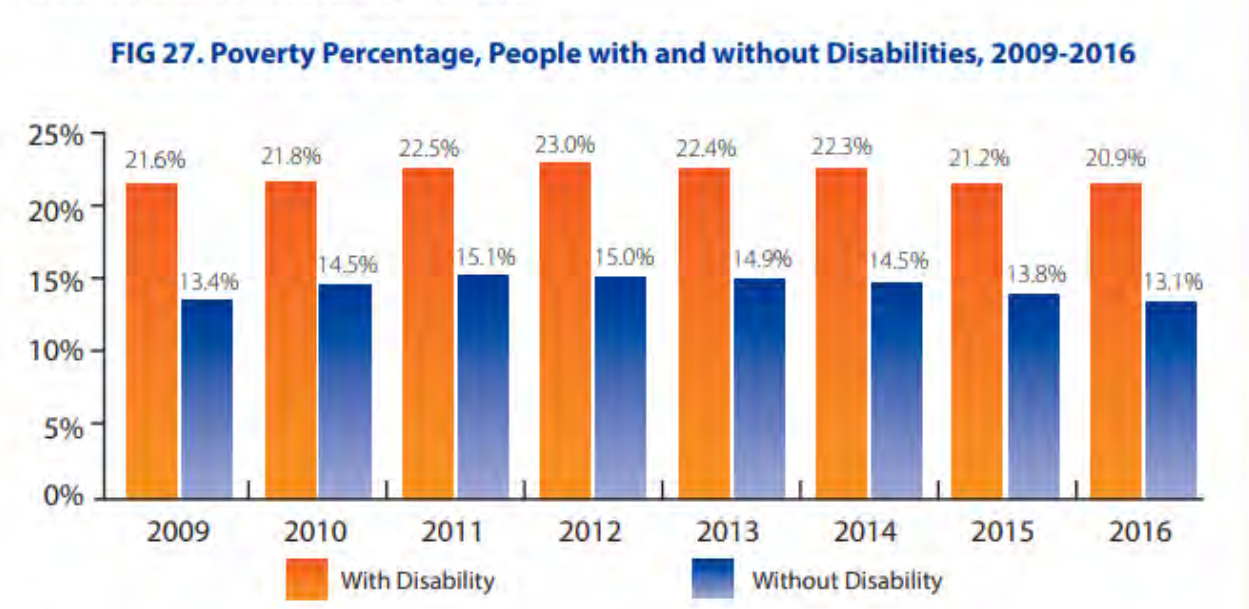
Jail time and cash bail are harmful to people with disabilities in Illinois and are literal barriers to moving society forward. Key points we ask you to consider are as follows:

Overrepresentation of People with Disabilities in Jail

According to the Center for Disease Control and Prevention, 61 million people, one in four adults in the United States have a disability.[1] If we know that basically 25% of the national population has a disability, then it's clear that people with disabilities are overrepresented in jails, with a disability jail population of 40%.[2] There is a fundamental situation of disparity that must be addressed on a large scale through system reform, and addressing disparities caused by cash bail requirements is critical.

Poverty and Disability

Rebecca Vallas has expertly noted that disability is both, "a cause and a consequence of poverty."[3] Furthermore, she notes that 70% of people with disabilities would not be able to come up with an estimated $2,000 for a sudden, unplanned expense, compared to 35% of non-disabled people. This should give policymakers serious pause in considering how and when cash bail is imposed, and whether it is biased or effective. See the below chart from the 2017 Disability Statistics Annual Report[4] to get a sense of year-by-year disability vs. non-disability poverty comparisons:



The poverty percentage gap, or the difference between the percentages of those with and without disabilities, has been between 7.4 and 8.3 percentage points over the 8 years from 2009 to 2016 (Figure 28). The gap was over 8 percentage points in 2009 (8.3) and 2012 (8.1). The other years, the gap ranged from 7.4 (2010 and 2015) to 7.8 percentage points (2014 and 2016).

[1] https://www.cdc.gov/ncbddd/disabilityandhealth/infographic-disability-impacts-all.html
[2] https://www.bjs.gov/content/pub/press/dpji1112pr.cfm
[3] https://talkpoverty.org/2014/09/19/disability-cause-consequence-poverty/
[4] https://disabilitycompendium.org/sites/default/files/user-uploads/2017_AnnualReport_2017_FINAL.pdf

People with disabilities in poverty who rely on Social Security Income (SSI) are at risk of losing their sole source of income when they are detained pre-trial for any reason (including the inability to pay a cash bail). In 2017, there were 270,833 individual recipients of SSI in the state of Illinois, compared to 150,000 of those individuals living within Cook County.[5] When an individual receiving SSI is incarcerated for 30 days, their benefits are suspended, requiring them to report to Social Security upon release. They must provide proof of release and their benefits may or may not be reinstated. Further, if they are reinstated, they are only reinstated the month following the month of release, leaving a one-month gap of zero economic support.[6]

If an SSI recipient spends more than 12 months in jail, they lose their benefits entirely and must complete a new application for social security income. Other benefits granted to support people with disabilities in their communities may or may not dissolve pre-conviction, but for SSI benefits specifically (those which are granted to people 65 and over, people who are blind, or have a disability and no income or resources), "the Social Security Administration, generally do[es] not pay Social Security and Social Security Income recipients during confinement for a crime in jail, prison, and certain other public institutions."[7]

Furthermore, Medicare Part B (Medical Insurance) coverage does not continue during incarceration if the monthly premiums are not paid. This leaves a person without medical care, past due premiums to reenroll if coverage is lost while incarcerated, and a limited window to reenroll, which is basically January through March of each year only. If a person with a disability is incarcerated in the middle of the year, loses their Medicare, and must reenroll in January through March of the following year, their insurance will become effective only in July of the year in which they reenroll.[8] This again leaves a significant gap during which the person's opportunities for success in re-establishing themselves in the community is severely negatively impacted. For example, a Medicare coverage lapse means a person held pretrial cannot bill for services immediately upon release from custody.

Furthermore, during incarceration, the person with a disability who relies on SSI will not have any chance to accrue funds or assets that could positions them for success on re-entry. The Social Security Administration "will not pay benefits to someone who is confined in an institution…in connection with a criminal case if the court finds them insane…or incompetent to stand trial."[9] Therefore, this is fundamentally a disinvestment in the person's ability to succeed and contribute positively to their community.

For people with disabilities who are employed, it often only takes one day of pretrial detention to lose their jobs and sources of income all together.

[5] https://www.ssa.gov/policy/docs/statcomps/ssi_sc/2017/il.html
[6] https://www.ssa.gov/reentry/benefits.htm
[7] https://www.ssa.gov/reentry/benefits.htm
[8] https://www.ssa.gov/reentry/benefits.htm
[9] https://www.ssa.gov/reentry/benefits.htm

Inadequate Reasonable Accommodations and Supports in Jail Cause Harm

Reasonable accommodations for disability as well as nondiscriminatory practices, although required by the Americans with Disabilities Act (ADA), Section 504 of the Rehabilitation Act of 1973, and the U.S. Constitution, are frequently poorly done or not provided at all in jails. Furthermore, many people with disabilities live within a web of complex disability supports, and jail resources are typically inadequate to meeting these needs. When a person with a disability is unable to bail out of confinement due to inability to pay cash bail, they are put at risk not only because disability accommodations may not be made, but also because the community supports they need to survive may be lost while they are detained. Extreme harm may be done to accused people detained pretrial who are unable to secure release to obtain the medical care or accommodations they need to survive. When accommodations are not met during incarceration of people with disabilities, they often suffer injury and, in some cases, death.[10]

Personal Care Network of Support and Caregiving

An under-addressed area of community impact related to cash bail and pretrial detention also has to do with personal care and caregiving. Many persons who are incarcerated are in the position of being caregivers to others or need personal care themselves if disabled. Those who are caregivers may be performing homemaker tasks such as cooking or cleaning, or personal care such as bathing, dressing, feeding, positioning and toileting for people with disabilities. Those employed formally or informally as personal assistants or caregivers, whose work is to care for people with disabilities in the community, lose their work upon incarceration. In practice, then, the person with a disability they serve is also punished by their pretrial detention. The community impact in these scenarios cannot be emphasized enough and is sorely neglected. It can be a lengthy difficult process for a person with a disablity to find a paid or unpaid personal assistant or caretaker.[11] Losing one can only have further unintended repercussions.

Additionally, we must also consider particular situations where the person incarcerated is the parent of a child with a disability who relies upon them for their primary care and support, especially while in school. In such situations, detaining the parent in jail can have devastating consequences on the family as a whole. That parent is no longer available for school coordination of special education services, nor are they able to support them in out-of-school therapies and other needed services. This is an important and overlooked community cost of pretrial detention.

Housing

Cash bail creates housing instability for people with disabilities because people cannot keep up rent or mortgage payments while incarcerated, ensure that housing inspections occur, or otherwise ensure that a number of key housing practices are maintained in order to keep their housing. While the lack of affordable housing overall is a national problem, less is understood about ensuring that this housing includes units that are accessible to people with disabilities. There is a significant lack of affordable accessible housing and people with disabilities struggle

[10] https://www.americanprogress.org/issues/criminal-justice/reports/2016/07/18/141447/disabled-behind-bars/
[11] http://www.dhs.state.il.us/page.aspx?item=59704

to locate and secure this housing in the first place, in part because many have or need housing vouchers in order to afford a place to live.[12] This need is actually the number one category of service requests made to Access Living, bar none. Being detained in jail pretrial puts people with disabilities great risk losing of their housing and increases the risk of being institutionalized in nursing homes or other settings. Some of the people Access Living has served through community transition services have been forced into this situation.

Conclusion

Access Living believes in the administration of justice and we believe most people in our criminal justice system want to do what is right for people with disabilities. What is right is to eliminate cash bail so people with disabilities are no longer being harmed by not being able to afford to buy their freedom to access the accommodations, medical care, and resources they need to survive and enjoy economic opportunities like anyone else. The use of outright pretrial detention should also be carefully limited and carefully monitored for disability discrimination.

Cash bail is essentially a way to perpetuate further injustice in our system by fining people before they are convicted of a crime—a fine that is not impactful if they have plentiful resources but devastating if they don't. It further perpetuates the class-based disparities in our justice system, which disproportionally impacts people with disabilities. The only way to eliminate these disparities pretrial is to eliminate cash bail.

Illinois has been a progressive leader in change throughout history. We have the opportunity to lead the way by eliminating cash bail. The Commission honorably has promised "to review pretrial practices in the State of Illinois and make recommendations that ensure defendants are not denied liberty solely due to their inability to financially secure their release from custody."[13] To advance best practices, it is within your purview to continue to lead the way on pretrial reform by eliminating cash bail in the State of Illinois and dramatically reducing the number of people jailed pretrial.

Questions or comments regarding this document may be addressed to Elesha Nightingale, Access Living's Disability and Incarceration Policy Analyst at: enightingale@accessliving.org or (312) 640-2131.

[12] https://www.housingactionil.org/downloads/Locating_Accessible_Hsg_IHARP%2007.pdf
[13] http://www.illinoiscourts.gov/Probation/12-18.pdf

June 28, 2019

Administrative Office of the Illinois Courts, Probation Division
c/o Honorable Robbin J. Stuckert
3101 Old Jacksonville Road
Springfield, IL 62704

Submitted electronically to pretrialhearings@illinoiscourts.gov

Re: Comments on Pretrial Reform Recommendations from the American Civil Liberties Union

Dear Honorable Robbin J. Stuckert:

ACLU SMART JUSTICE

Campaign for Smart Justice
National Office
125 Broad Street, 18th floor
New York NY 10004
Tel: (212) 284-7366
Fax: (212) 549-2654
aclu.org

Susan Herman
President

Anthony Romero
Executive Director

Richard Zacks
Treasurer

The American Civil Liberties Union (ACLU) welcomes the opportunity to submit public comment to the Illinois Supreme Court Commission on Pretrial Practices (hereafter, "Commission"). The ACLU is a non-partisan civil rights and civil liberties organization that advocates for issues such as criminal justice reform, voting rights, immigrants' rights, and reproductive freedom, with a presence in all 50 states. We represent approximately 1.6 million members nationwide, including more than 70,000 members located in Illinois. For the past few years we have engaged in legislative and judicial pretrial advocacy, as well as litigation, in over 35 states. We hope to contribute this wealth of experience to support the Commission in making recommendations on Illinois' pretrial system.

As recently as 2015, three-quarters of Illinois' jail population consisted of people waiting in jail pretrial.[1] This means more than 12,000 presumptively innocent people were languishing in jail at any given time. Across the country, state and local jurisdictions have recognized the legal, pragmatic, and moral importance of pretrial liberty. The State of Illinois judiciary has shown leadership in local efforts, issuing rule changes that contributed to nearly a 20% decrease in the size of the pretrial population since 2006.[2] Yet pretrial detention remains an acute problem in Illinois, with an estimated 250,000 people who cycle through the state's jails each year. We encourage the Commission to take the essential next steps to correct remaining deficiencies in the state's pretrial practices.

Much of the national momentum around pretrial reform has been driven by the public's increasing outrage at the damage wrought by an over-reliance on cash bail. Unaffordable money bail causes significant harms—removal from family, inability to maintain work, exposure to violence, deleterious effects on mental health, inability to effectively meet with counsel, disruption in life responsibilities— without advancing the public interest, primarily due to fact that unaffordable money bail drives pretrial incarceration. Recent

[1] Illinois Criminal Justice Information Authority Data Clearinghouse, County Jail Average Daily Population, April 24, 2018. Figure represents the average sentenced and pre-sentenced daily population in county jails statewide in 2016; American Civil Liberties Union, *Blueprint for Smart Justice: Illinois*, 7 (2018), https://50stateblueprint.aclu.org/assets/reports/SJ-Blueprint-IL.pdf
[2] American Civil Liberties Union, *Blueprint for Smart Justice: Illinois*, 8 (2018), https://50stateblueprint.aclu.org/assets/reports/SJ-Blueprint-IL.pdf

evidence suggests that pretrial detention undermines public safety.[3] Pretrial detention causes ripple effects that harm to individuals and their families. Research demonstrates the avoidable detrimental harm that pretrial detention can cause, such as a decreasing the likelihood of obtaining formal employment.[4] Worse still, people who remain incarcerated pretrial receive harsher sentences than those who are released.[5] And it is incarceration itself, not simply incarceration based on poverty, that needs careful limitation.

The Commission should closely scrutinize all causes of pretrial incarceration to not only redress constitutional deficiencies, but to make Illinois a national leader in pretrial justice. The state's primary focus should be ensuring that the constitutional standards are adhered to, which requires limiting the number of people who are detained pretrial and endeavoring to find mechanisms of safe release. Illinois must also strengthen the due process regulations for those who are eventually detained. When detention hearings are held the court's evidentiary standard should be increased so that persons are only detained if clear and convincing evidence is presented that no condition or combinations of conditions can mitigate a specific and imminent threat of physical violence to specific persons or willful flight. These due process protections will not only help narrow who can be detained pretrial, but will also offer significant protections to those persons who are detained.[6]

ACLU SMART JUSTICE

Campaign for Smart Justice
National Office
125 Broad Street, 18th floor
New York NY 10004
Tel: (212) 284-7366
Fax: (212) 549-2654
aclu.org

Susan Herman
President

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Treasurer

The Fundamental Right to Pretrial Release

We encourage the Commission make its recommendations keeping front of mind that the right to pretrial liberty is fundamental. *Stack v. Boyle*, 342 U.S. 1, 4 (1951); *United States v. Salerno*, 481 U.S. 739, 750 (1987). "Freedom from bodily restraint has always been at the core of the liberty protected by the Due Process Clause from arbitrary governmental action." *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992). In the pretrial context, one's interest in bodily freedom is especially significant because prior to conviction, a person accused of a crime is afforded the presumption of innocence: "that bedrock, axiomatic and elementary principle whose enforcement lies at the foundation of the administration of our criminal law." *In re Winship*, 397 U.S. 358, 363 (1970) (internal citation omitted). Thus, it is undisputed that "[i]n our society liberty is the norm, and detention prior to trial…is the carefully limited exception." *United States v. Salerno*, 481 U.S. 739, 755 (1987).

Given these fundamental rights, any denial of a person's right to pretrial freedom must be justified by specific, clear, and convincing evidence presented by the government. *See United States v. Salerno*, 481 U.S. 739 (1987). The government must further establish

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[3] Prison Policy Initiative, *Findings from Harris County: Money bail undermines criminal justice goals* (August 24, 2017), https://www.prisonpolicy.org/blog/2017/08/24/bail/

[4] Will Dobbie, Jacob Goldin and Crystal Yang, *The Effects of Pre-Trial Detention on Conviction, Future Crime, and Employment: Evidence from Randomly Assigned Judges,* (July 2016), https://scholar.princeton.edu/sites/default/files/wdobbie/files/dgy_bail_0.pdf

[5] Christopher T. Lowenkamp, Marie VanNostrand, and Alexander Holsinger, *Investigating the Impact of Pretrial Detention on Sentencing Outcomes*, (2013), https://csgjusticecenter.org/wp-content/uploads/2013/12/Investigating-the-Impact-of-Pretrial-Detention-on-Sentencing-Outcomes.pdf

[6] American Civil Liberties Union, *A New Vision for Pretrial Justice in the United States*, (March 2019), https://www.aclu.org/sites/default/files/field_document/aclu_pretrial_reform_toplines_positions_report.pdf,

that infringements on pretrial freedom are necessary before a person is detained. Detention is only appropriate if the court has found by clear and convincing evidence that a person is a willful flight risk or an imminent and serious physical threat to a reasonably identifiable person or persons.[7] This means a court cannot detain an individual unless it concludes there is no other less restrictive alternative available. This strict limitation applies whether the detention is outright or *sub rosa*, i.e., pursuant to an unattainable condition of release such as unaffordable money bail. *United States v. McConnell*, 842 F.2d 105, 110 (5th Cir. 1988); *Zadvydas v. Davis*, 533 U.S. 678, 690-91 (2001).

Who can be held pretrial and for how long?

The Illinois statute does not sufficiently tailor the offenses for which an accused person may be detained prior to trial. The law allows for pretrial detention, after a hearing, of people charged with stalking, felony offenses where imprisonment without conditional or revocable release may be levied upon conviction, unlawful use of a weapon (in certain situations), or with terrorist threats.[8] On their face these charges are not "extremely serious" and there is no evidence that these offenses are correlated to an elevated risk of flight or danger. There is also some precedent in Illinois that suggests that people can be detained to protect the integrity of the court process.[9] In addition to ensuring the charges creating detention eligibility are narrowly limited only to "extremely serious" instances, the Commission should also recommend against justifying pretrial detention based on a risk of interfering with the judicial process. Whereas this is a crime on its own,[10] we believe that it is improper to use as a basis of detention before it is even alleged to have occurred. Ensure all persons facing possible detention receive strong due process protections. Accusation of crime alone should never be a sufficient basis for detention. Detaining people based on probable cause of the charge alone undermines the presumption of innocence, which is a cornerstone of our democracy. At the release hearing, the court's role is to determine whether a person can be released back to their lives while they await trial, not merely whether there is enough evidence to justify an arrest. By the same justification, detention standards involving "proof evident and the presumption great" should be scrapped.

People not granted presumptive release must have the right to counsel, to pretrial discovery and to present and cross-examine any witnesses during their pretrial hearing. Even one day behind bars can have devastating consequences,[11] and the negative personal and public outcomes increase with each additional day. For some, the harms of pretrial detention are irreversible, as evidenced by the increasing rates of suicides amongst people held in local jails.[12] It is thus imperative that the Commission recommend that people be

ACLU SMART JUSTICE

Campaign for Smart Justice
National Office
125 Broad Street, 18th floor
New York NY 10004
Tel: (212) 284-7366
Fax: (212) 549-2654
aclu.org

[7] Id.
[8] Id.
[9] *People ex rel. Hemingway v. Elrod*, 60 Ill.2d 74 (1975).
[10] 720 I.L.C.S. 5/32-1 (2012).
[11] Christopher T. Lowenkamp, Marie VanNostrand, and Alexander Holsinger, *The Hidden Costs of Pretrial Detention,* (2013), https://craftmediabucket.s3.amazonaws.com/uploads/PDFs/LJAF_Report_hidden-costs_FNL.pdf
[12] Bureau of Justice Statistics, Mortality in Correctional Institutions (2016), https://www.bjs.gov/index.cfm?ty=dcdetail&iid=243;
Matt Clarke, Department of Justice Releases Reports on Prison and Jail Deaths, Prison Legal News (January 8, 2018), https://www.prisonlegalnews.org/news/2018/jan/8/department-justice-releases-reports-prison-and-jail-deaths/

provided with a first appearance release hearing within 24 hours of arrest. These pretrial hearings must be provided with counsel, and with a strong presumption of release. People who are detained pretrial should have the strongest speedy trial rights to protect against indefinite detention. Under the current statute, people who are detained must be brought to trial within 120 days,[13] with a number of exclusions and exceptions. This is too long. The procedural barriers of the speedy trial statute, such as the requirement that a person in certain circumstances demand their trial to start the clock, and its lack of protections for defendants have long been criticized.[14] The deprivation of liberty through pretrial detention requires people to be brought to trial sooner. We encourage the Commission to recommend strengthening these speedy trial protections to require that people be brought to trial within thirty days or released without prejudice, limit excludable time, and remove any procedural barriers .

As detailed in this Commission's preliminary report, current pretrial practices in Illinois raise equity, fairness, and constitutional concerns. For example, defense counsel was only present at 49% of bail hearings.[15] These hearings involve crucial decisions about pretrial liberty, which is a vital right. The presence of an attorney can significantly improve the accuracy and fairness of outcomes. Moreover, the person accused was only present 82% of the time, including video appearances.[16] Thus, crucial release decisions are made in absentia for nearly one out of every five people. This deprives those facing charges of the ability to argue for a release on one's own recognizance or on decreased conditions, and the court cannot adequately determine a person's present ability to pay. It is because of due process and constitutional violations such as these that we implore the Commission to recommend strengthening procedural protections as a critical step in limiting the use of pretrial detention.

Who can Illinois automatically release?

A clear way to ensure that pretrial detention is appropriately limited while reducing the burden on local systems is to reduce the number of people booked into jails in the first instance to the greatest extent possible. It is therefore critical that Illinois widely adopt mandatory pre-booking citations or summons, or other release-based, diversionary practices. Doing so would significantly cut the number of people languishing in Illinois' jails awaiting trial. Illinois can accomplish this reduction without increasing failure to appear rates. Powerful evidence from other jurisdictions consistently demonstrates that increased pretrial release can be achieved without a negative impact on public safety or court appearance rates. In fact, people quickly released pretrial are *less* likely to miss court or be re-arrested than those who were forced to await their trial in jail.[17] Further, simple practices including court date reminders have been demonstrated to be highly

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[13] 725 I.L.C.S. 5/103-5 (2018).
[14] *Cf.*
David S. Rudstein, *Speedy Trial in Illinois: The Statutory Right*, DePaul Law Review (Winter 1976),
https://via.library.depaul.edu/cgi/viewcontent.cgi?referer=https://www.google.com/&httpsredir=1&article=2646&context=law-review
[15] Christopher T. Lowenkamp, Marie VanNostrand, and Alexander Holsinger, *The Hidden Costs of Pretrial Detention,* (2013),
https://craftmediabucket.s3.amazonaws.com/uploads/PDFs/LJAF_Report_hidden-costs_FNL.pdf
[16] Id.
[17] Illinois Network for Pretrial Justice.pdf

effective in reducing failure to appear rates.[18] We encourage the Commission to recommend that jurisdictions adopt mandatory citations or summonses for all misdemeanors to limit the number of people who can be held in jail pretrial.

How do we release people who aren't automatically released?

The Commission should recommend strong presumptions of release to make clear that release should be the norm and that the government may only disturb under carefully circumscribed circumstances. Properly enforced, presumptions of release make a return to one's family, job, and community the default. In addition, we implore the Commission to recommend that courts be required to release people on the least restrictive condition or combination of conditions possible. Release without conditions should be standard, and courts must otherwise take an individualized approach to imposing release conditions.[19] Cash bail should be dramatically limited. At a minimum, courts should assess every individual's present ability-to-pay, which, because of the exigency created by pretrial detention, the Commission should define as what a person can access on their own within 24 hours. Resources from family and friends must not be considered. This approach helps guarantee that a lack of financial resources does not lead to extended time in incarceration and protects family and loved ones from exploitation in their most desperate moments.

We strongly encourage the Commission to recommend people receive hearings within 24 hours where there are strong presumptions of release, a properly tailored ability to pay determination, and a requirement to be released on least restrictive conditions.

Conclusion

We thank the Commission for the opportunity to provide written comment. The Commission has an opportunity to propel Illinois forward as a national leader on pretrial issues, and we are encouraged by the demonstrated commitment of the court to improve the state's pretrial practices. We ask that the recommendations above be incorporation into the Commission's final recommendations for pretrial reform, and look forward to the opportunity for dynamic feedback and partnership between the Commission and the many community stakeholders across Illinois. If you have any questions, please contact Udi Ofer, Director of the Campaign for Smart Justice, at uofer@aclu.org.

Sincerely,

Udi Ofer
Director of the Campaign for Smart Justice

ACLU SMART JUSTICE

Campaign for Smart Justice
National Office
125 Broad Street, 18th floor
New York NY 10004
Tel: (212) 284-7366
Fax: (212) 549-2654
aclu.org

[18] Pretrial Justice Center for Courts, *Use of Court Date Reminder Notices to Improve Court Appearance Rates*, (September 2017), https://www.ncsc.org/~/media/Microsites/Files/PJCC/PJCC%20Brief%2010%20Sept%202017%20Court%20Date%20Notification%20Systems.ashx

[19] E.g., *United States v. Scott*, 424 F.3d 888 (9th Cir. 2005) (finding that mandatory drug testing violated the Fourth Amendment);

Civic Federation Testimony
Illinois Supreme Court Commission on Pretrial Practices
Public Hearing, Monday, June 17, 2019

Good afternoon Honorable Chairman Stuckert and members of the Illinois Supreme Court Commission on Pretrial Practices. I am Laurence Msall, president of the Civic Federation—a 125-year-old, non-partisan government research organization in Chicago. Thank you for the opportunity to testify today.

The Civic Federation believes in efficient, effective government, which requires transparency and accountability. The Supreme Court recognized the importance of these principles in its 2017 statement on pretrial practices. In line with that statement, we urge the Commission to recommend the creation of a statewide system for the collection and public dissemination of data on pretrial actions and outcomes.

Currently no such system exists. This is problematic because without this data there is no way for criminal justice professionals or the public to evaluate policy reforms. Even with recent improvements in data disclosure—in particular by the Cook County Chief Judge's Office—there are still unanswered questions and conflicting information.

In order to make informed decisions and measure progress, policy makers need statistics to answer basic questions such as:

- How many people are held in custody without bail?
- How many pay for their release?
- How long do defendants stay in jail?
- What conditions are placed on released defendants such as electronic monitoring or home confinement?
- How do bond court judges make their decisions and how uniform are they?
- How frequently do released defendants miss court dates or commit new offenses?

Ideally, the collection and public release of data about bond court and pretrial jail populations should be done by a statewide agency with authority to require collection of the data from circuit court clerks and sheriffs. The data should be collected electronically and housed in a single repository. Reports with the compiled statistics should then be made available to the public.

The Civic Federation has been working with criminal justice advocates on House Bill 2689, a legislative proposal that would make this kind of data available statewide, and we would be happy to discuss it further.

In keeping with transparency and accountability, we encourage the Commission to expand the public availability of information about its own activities. Unless there is a compelling reason for

closed meetings, we believe the Commission should err on the side of transparency by allowing the public to attend meetings of the Commission and its subcommittees. We also request that the Commission post information on its website about its proceedings, including presentations and subcommittee membership. These steps would increase public confidence in the Commission's recommendations, along with public awareness and discussion of these important issues.

Thank you for the opportunity to share the Civic Federation's perspective on this matter. I would be happy to answer any questions.

CRIMINAL JUSTICE POLICY PROGRAM
HARVARD LAW SCHOOL

Honorable Robbin J. Stuckert
Chief Judge, DeKalb County
133 W. State Street
Sycamore, IL 60178

RE: Illinois Supreme Court Commission on Pretrial Practices

Dear Honorable Robbin J. Stuckert,

On behalf of the Criminal Justice Policy Program at Harvard Law School, we submit this testimony to the Illinois Supreme Court's Commission on Pretrial Practices. We are pleased to learn that the Illinois Supreme Court is considering reforms to the state's pretrial laws and practices. As national experts on bail who have closely studied Illinois's pretrial practices, we encourage the state to eliminate money bail and enforce procedural safeguards for pretrial detention.

In Illinois and across the country, bail reform has gained momentum as the public learns how the money bail system discriminates based on wealth and race. No pretrial system should treat people differently based on the money in their bank accounts or the color of their skin. But in Illinois today, some people accused of crimes can post bond and walk free while they await trial, while those who cannot afford their bonds must languish in jail until their case is resolved. Money bail disproportionately harms Black and Latinx people accused of crimes who often have less personal and familial wealth than their white counterparts. Implicit and explicit racial biases can make those disparities worse. Indeed, recent empirical research has found that money bail is imposed more often on Black people than on white people, and that Black people receive higher bail amounts than white people.[1]

The most grievous harm that money bail inflicts is jail. Pretrial reforms cannot focus on just money — reducing pretrial incarceration must be a central goal. Reducing pretrial incarceration can be accomplished only through clear limits on when and how judges can send people to jail pretrial. As we detail in our latest report, *Bail Reform: A Guide for State and Local Policymakers*, the only surefire way to reduce the number of people incarcerated pretrial is to eliminate money bail and to establish procedural safeguards for pretrial incarceration.[2]

[1] David Arnold et al., *Racial Bias in Bail Decisions*, 133 Q. J. ECON. 1885, at 1885–86 (2018).
[2] COLIN DOYLE, CHIRAAG BAINS, & BROOK HOPKINS, CRIMINAL JUSTICE POLICY PROGRAM, HARVARD LAW SCH., BAIL REFORM: A GUIDE FOR STATE AND LOCAL POLICYMAKERS 13–16 (2019), http://cjpp.law.harvard.edu/publications/bail-reform-a-guide-for-state-and-local-policymakers.

In recent decades, the pretrial incarceration rate in the United States has skyrocketed beyond all historical and international norms.[3] Illinois has followed this national trend: over the last few decades, Illinois's pretrial jail population has tripled.[4]

Through pretrial incarceration, the money bail system imposes tremendous costs on the public, those who are detained, their families, and their communities. Excessive pretrial incarceration harms public safety and undermines the rule of law.

People jailed pretrial lose their jobs, their homes, and custody of their children.[5] As the Supreme Court has cautioned, a defendant detained pretrial "is hindered in his ability to gather evidence, contact witnesses, or otherwise prepare his defense."[6] A host of recent quasi-experimental empirical studies have found that pretrial detention influences case outcomes by causally increasing a defendant's chance of conviction and sentence length.[7] Innocent people who are detained pretrial become so desperate to get out of jail that they will plead guilty to crimes that they did not commit in exchange for a sentence of time served.[8] In other words, innocent people who mount a defense and are acquitted can face more jail time than innocent people who plead guilty.

Although judges send people to jail to prevent future crime, pretrial detention's relationship to crime is mixed at best. Social science research has found that pretrial detention causally increases someone's propensity to commit a crime in the future.[9] This effect has been found even with jail stays as short as two days.[10] Unless pretrial detention is used carefully and sparingly, the practice undermines public safety by destabilizing lives and causing crime.

Unwarranted pretrial incarceration also betrays our legal system's founding principles. Across the globe, there are governments that determine guilt and mete out punishment without the hassle of trials, defense attorneys, or rules of evidence. But a free society incarcerates people only after they have been convicted of crimes, with rare and carefully limited exceptions. People accused of crimes are innocent until proven guilty, but pretrial incarceration flips this legal maxim on its head by jailing people before giving them the opportunity to defend themselves and without requiring the government to prove its case. In the rare instances when a defendant is a serious threat to someone's safety, our Constitution requires that the government prove that pretrial detention is necessary at an adversarial hearing with strict procedural safeguards.[11]

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[3] Peter Wagner & Wendy Sawyer, PRISON POLICY INITIATIVE, *Mass Incarceration: The Whole Pie 2019* (Mar. 14, 2018), https://www.prisonpolicy.org/reports/pie2019.html.
[4] VERA INSTITUTE, *Incarceration Trends*, http://trends.vera.org/incarceration-rates?data=pretrial&geography=states&fips=17 (last viewed June 25, 2019).
[5] CRIMINAL JUSTICE POLICY PROGRAM, HARVARD LAW SCH., MOVING BEYOND MONEY: A PRIMER ON BAIL REFORM 7 (2016), http://cjpp.law.harvard.edu/publications/primer-bail-reform.
[6] Barker v. Wingo, 407 U.S. 514, 533 (1972).
[7] Megan Stevenson & Sandra G. Mayson, *Pretrial Detention and Bail*, REFORMING CRIMINAL JUSTICE 22 (2017) (collecting studies).
[8] Heaton et al., *The Downstream Consequences of Misdemeanor Pretrial Detention* 69 STAN. L. REV. 711, 714–717 (2017).
[9] *Id.*
[10] CHRISTOPHER T. LOWENKAMP ET AL., LJAF, THE HIDDEN COSTS OF PRETRIAL DETENTION 4 (2013).
[11] United States v. Salerno, 481 U.S. 739, 746–50 (1987).

At present, courts across Illinois fail to live up to this constitutional mandate. Largely through the mechanism of money bail, people are detained pretrial without required constitutional protections. **To remedy this injustice, we recommend that the commission endorse the following policies:**

1) The prohibition of secured money bail as a condition of pretrial release.
2) Strict procedural safeguards for pretrial detention:
   a) Pretrial detention hearings should be held only upon motion of the prosecutor, and the government should have the burden to prove by clear and convincing evidence that the accused person is a present danger to the physical safety of a person or the community.[12]
   b) Defense counsel should be present at these hearings and have the opportunity to cross-examine the prosecution's witnesses and present evidence.[13]
   c) Pretrial detention should be allowed only for people charged with serious, violent felony crimes.[14] People charged with all other crimes should be released or conditionally released pending trial.
   d) In jurisdictions that use actuarial risk assessments as part of a pretrial screening process, these assessments should not be used to make decisions to detain people pretrial.

Thank you for the opportunity to submit these comments. If we can be of any assistance to the commission as it contemplates reforms, we are available.

Sincerely,

Brook Hopkins,
Executive Director, Criminal Justice Policy Program, Harvard Law School

Colin Doyle,
Staff Attorney, Criminal Justice Policy Program, Harvard Law School

[12] *E.g.*, N.J. STAT. ANN. § 2a:162-16, 18 (West 2017).
[13] *E.g.*, N.M. CT. R. 5-401(A)(2).
[14] For a thorough treatment of developing appropriate "detention eligibility nets," see generally TIMOTHY R. SCHNACKE, "MODEL" BAIL LAWS: RE-DRAWING THE LINE BETWEEN PRETRIAL RELEASE AND DETENTION (2017).

Coalition to End Money Bond

June 30, 2019

Illinois Supreme Court Commission on Pretrial Practices
Pretrial Comments
AOIC Probation Division
3101 Old Jacksonville Road
Springfield, IL 62704

Submitted via email to: Pretrialhearings@illinoiscourts.gov

Dear Members of the Commission:

Congratulations on completing your series of public hearings on pretrial justice in Illinois. The listening sessions were well received and participated in by many community members across the state. As you are well aware, the Coalition to End Money Bond remains steadfast and committed to improving pretrial practices through the elimination of wealth-based detention, not only in Cook County, but across the state. Over the last nine months, we have worked with partners and allies across the state to form the Illinois Network for Pretrial Justice. Member organizations are committed not only to eliminating money bond but ensuring that community safety is not compromised.

Since Cook County's General Order 18.8A went into effect in September 2017, the use of money bonds has decreased significantly. The median money bond amount has also dropped significantly (from $5,000 to $1,000) and the county's jail population has been reduced by over 40% with over 85% of people appearing at court dates and only about one half of one percent (.6%) being rearrested on violent charges. The success in Cook County shows that when people are released pretrial and provided, when necessary, with relevant support such as text message court date reminders, they return to court and public safety is not compromised. In fact, FBI statistics show that violent crime has decreased in Chicago while bond reform has taken place.

In light of the positive and successful results in Cook County, we are asking that you adopt the Supreme Court Rule initially proposed by Cook County Public Defender Amy Campanelli in October 2017. This proposed rule is supported by all Cook County stakeholders and more than 70 community organizations. This rule would expand upon the progress made by the Bail Reform Act of 2017 by further reducing Illinois's reliance on money bond. Money bond continues to result in thousands of people being incarcerated pretrial solely because they cannot afford to payment required to secure their freedom. In light of this, the commission should recommend that pretrial incarceration only be considered for people who are both accused of serious felonies and that also pose a specific provable threat of harm to others.

The Bail Reform Act of 2017's requirement of court-appointed lawyers to advocate for accused people at the initial court appearance has been a necessary and important first step. However, to further protect accused people's rights, this commission should recommend that courts be required to conduct rigorous bail hearings with strict due process protections before ordering detention, money bond, or restrictive release conditions. Bail determinations are the single most important factor in the outcome of a criminal case. Not only do accused people who are detained pretrial fare worse in plea negotiations (because they are bargaining from a weaker position), they are also often compelled to plead guilty, even when they are innocent. This practice leads to more convictions and longer sentences—and undermines our legal system as a result. Because of this, bail determinations should only be made after a truly meaningful hearing has occurred.

This Commission has the opportunity to significantly decrease the number of people in jail across Illinois while simultaneously increasing the protection and safety of accused people and their families. Your recommendations can honor the presumption of innocence without compromising community safety. It is imperative that this Commission's recommendations are designed to drastically decrease pretrial incarceration, which is the only path toward truly improving community health and safety.

Attached to this letter are 1) a copy of the proposed supreme court rule with a November 2017 letter in support signed by over 70 organizations and individuals; and 2) a petition signed by 1,550 people in support of the proposed rule. Please do not hesitate to contact us at info@endmoneybond.org with any questions or if we can be of assistance.

Sincerely,

The Coalition to End Money Bond

A Just Harvest
ACLU of Illinois
Chicago Appleseed Fund for Justice
Chicago Community Bond Fund
Community Renewal Society
Illinois Justice Project
Justice and Witness Ministry, Chicago Metropolitan Association, Illinois Conference United Church of Christ
Nehemiah Trinity Rising
The Next Movement at Trinity United Church of Christ
The People's Lobby
Shriver Center on Poverty Law
Southsiders Organized for Unity and Liberation
Workers Center for Racial Justice

Enclosures

November 14, 2017

Jan Zekich *Sent via email to JZekich@illinoiscourts.gov*
Secretary, Illinois Supreme Court Rules Committee
Administrative Office of the Illinois Courts
222 N. LaSalle Street, 13th Floor
Chicago, IL 60601

Dear Ms. Zekich and Members of the Rules Committee:

There is increasing recognition by legal advocates, stakeholders, and community members in Illinois that wealth-based pretrial detention practices are neither effective nor legally justifiable. We, therefore, write to express our strong support for the proposed Illinois Supreme Court Rule submitted on October 13, 2017 by Amy P. Campanelli, Public Defender of Cook County; Hon. Timothy C. Evans, Chief Judge Circuit Court of Cook County; Tom Dart, Cook County Sheriff; Toni Preckwinkle, President, Cook County Board; Jesús "Chuy" García, 7th District Commissioner, Chair of the Criminal Justice Committee, Cook County Board of Commissioners; and Kim Foxx, Cook County State's Attorney. The undersigned include ten individual signatories, forty-nine Illinois based organizations, and twelve national organizations.

The proposed rule would require an evidentiary hearing and a finding by the judge that an accused person is able to afford the amount of monetary bail set before permitting the setting of monetary bail in any criminal case. This rule would help bring the Illinois courts' current practice of setting bail in amounts higher than the accused can afford—a practice that occurs not only in Cook County, but also throughout the State—into compliance with both federal and state law. The illegal and unconstitutional nature of our current practices has been detailed thoroughly in the July 12, 2017 Memorandum of Law recently prepared by former United States Attorney General Eric Holder, Jr. and his law firm, Covington & Burling, LLP at the request of Ms. Campanelli. That memorandum is attached to this letter for your review.

The current practice in Illinois courts of using unpayable monetary bail to detain people is illegal and unconstitutional.

The United States Supreme Court has long recognized that the government "can no more discriminate on account of poverty than on account of religion, race, or color."[1] To prevent such wealth-based discrimination on the account of poverty in setting bail amounts, the Court made it clear that bail has a single purpose—to assure the defendant's presence at trial—and thus "[b]ail set at a figure higher than an amount reasonably calculated to fulfill this purpose is 'excessive' under the Eighth Amendment."[2] Similarly, the Illinois Supreme Court has long held that using a

[1] *Griffin v. Illinois*, 351 U.S. 12, 17-18 (1956).
[2] *Stack v. Boyle*, 342 U.S. 1 (1951).

high amount of monetary bail to effect pretrial detention violates a defendant's right to bail.[3] Lower courts in Illinois have reached the same conclusion that "excessive bail should not be required for the purpose of preventing a prisoner from being admitted to bail [release]."[4]

Alongside constitutional provisions, the Illinois Bail Statute states that pretrial release may only be denied where the court makes specific findings that the accused poses a risk of danger.[5] The statute further provides that secured monetary bail is to be the *last* resort as a condition of release: "Monetary bail should be set only when it is determined that no other conditions of release will reasonably assure the defendant's appearance in court, that the defendant does not present a danger to any person or the community and that the defendant will comply with all conditions of bail."[6] The statute mandates that when monetary bail is required, it may not be "oppressive" and must be set with consideration given to the financial ability of the accused.[7]

Despite all of these federal and state laws protecting the right to pretrial liberty, judges in the State of Illinois continue the unconstitutional practice of using unpayable monetary bail to detain thousands of people pretrial on any given day. It has become commonplace that accused persons are incarcerated before trial not because they have been found to meet the high burden for pretrial detention, but rather because they cannot afford to post the amount of monetary bail set by the court. This practice not only violates their fundamental constitutional and statutory rights, but also results in serious harms to all of the accused people and their loved ones. It is nothing short of punishment enacted while the accused are still presumed innocent.

There have been commendable efforts in Cook County to amend wayward bail practices through stakeholder engagement and a General Order issued by the County's Chief Judge.[8] The limitations of the General Order, however, have immediately born out. Recent data collection efforts by community courtwatchers are finding disparate use of monetary bail since the Chief Judge's order took effect. Numerous judges have been observed using unaffordable money bail as a tool to ensure pretrial detention in a manner that violates the constitutional rights afforded to poor people, as well as the requirements of the Illinois Bail Statute. In fact, only 48% of the people who were given monetary bails in the first three weeks after the order took effect were able to post their bonds and secure release within seven days.[9]

Excessive pretrial detention is harmful, discriminatory, and ineffective.

A growing body of research indicates that pretrial detention for more than 24 hours results in serious harms to the individuals detained and undermines the justice system's own goals by increasing their risk of recidivism and failure to appear. Research also shows that pretrial detention results in higher rates of conviction and longer sentences as compared to outcomes for

[3] *People ex rel. Sammons v. Snow*, 340 Ill. 464 (1930).
[4] *People v. Ealy*, 49 Ill. App. 3d 922, 934 (1st Dist. 1977).
[5] 735 ILCS 5/110-4.
[6] 725 ILCS 5/110-2.
[7] 735 ILCS 5/110-5.
[8] Circuit Court of Cook County, Illinois, General Order 18.8A. Procedures for Bail Hearings and Pretrial Release.
[9] Data collected on 184 people given monetary bails (both deposit and cash bonds) in Cook County's Central Bond Court from September 18th through October 8, 2017 by courtwatchers and analyzed by Chicago Community Bond Fund.

similarly situated individuals who are out of custody pending trial.[10] Pretrial detention can, and frequently does, coerce the innocent to plead guilty, increasing the risk of wrongful convictions. In addition, it results in often irrevocable damage to family relationships and employment and housing opportunities.

Monetary bail has also been proven to further racial disparities in the pretrial justice system by systematically disadvantaging Black and Latino people accused of crimes. African Americans, in particular, are the least likely to be released without monetary bail and the least likely to be able to pay a bail if given one. Lastly, pretrial incarceration results in very significant public expense. Illinois' current rate of pretrial detention is unjustifiable on legal, moral, and fiscal grounds.

There is widespread support for reform both in Illinois and nationally.

On behalf of the organizations and individuals listed as signatories at the end of this letter, we hereby request that the Illinois Supreme Court adopt the attached rule designed to eliminate wealth-based pretrial detention and to ensure that judicial decisions about pretrial detention and release of presumptively innocent individuals comply with federal and state law. As noted earlier, the attached rule is the same one previously submitted to you on October 13, 2017 by Cook County stakeholders and many other signatories.

No fewer than four other states have recently enacted similar Supreme Court rules designed to eliminate pretrial detention caused solely by unpaid secured monetary bail. In the last 13 months, Indiana,[11] Maryland,[12] New Mexico,[13] and Arizona[14] have all enacted new Supreme Court rules requiring that monetary bails be set only in amounts that accused people can afford to pay—transforming monetary bail from a mechanism of detention to a condition of release. These changes also bring bail practices in line with the best practices identified by the American Bar Association in their "Standards for Criminal Justice: Pretrial Release."

We appreciate your willingness to consider reform in Illinois. If you have any questions, please feel free to contact Sharlyn Grace, Senior Criminal Justice Policy Analyst at Chicago Appleseed Fund for Justice at sharlyngrace@chicagoappleseed.org or 773-946-8535.

Regards,

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[10] *Community Supervision as a Money Bail Alternative: The Impact of CJA's Manhattan Supervised Release Program on Legal Outcomes and Pretrial Misconduct* by Freda F. Solomon Ph. D. and Russell F. Ferri, April 2016.

[11] Rule 26 was adopted September 7, 2016 and became effective immediately in nine counties. It will be effective statewide on January 1, 2018. Available at: http://www.in.gov/judiciary/files/order-rules-2016-0907-criminal.pdf.

[12] Rule 4-216.1(d)(1)(B) was adopted February 7, 2017 and became effective July 1, 2017. Available at: http://mdcourts.gov/rules/rodocs/ro192.pdf.

[13] Rule 5-401 was adopted June 5, 2017 and became effective July 1, 2017. Available at: http://www.nmcompcomm.us/nmrules/NMRules/5-401_6-5-2017.pdf.

[14] Amendment to Rule 7.3(b)(2) was adopted December 14, 2016 and became effective April 3, 2017. Available at: http://www.azcourts.gov/Portals/20/2016 December Rules Agenda/R_16_0041.pdf.

Individual Signatories

Carla Barnes, McClean County Public Defender
Eric H. Holder, Jr.
Michael Johnson, Co-chair, Criminal Justice Advisory Committee of Chicago Appleseed Fund for Justice and Chicago Council of Lawyers
Lori E. Lightfoot
Arthur Loevy, Jon Loevy and Mike Kanovitz, Loevy & Loevy
Matthew Piers, Hughes Socol Piers Resnick & Dym
Tim Schnacke, Executive Director, Center for Legal and Evidence-Based Practices
Geoffrey R. Stone, Edward H. Levi Distinguished Service Professor of Law, University of Chicago

Illinois Based Organizations

A Just Harvest
ACLU of Illinois
Asian Americans Advancing Justice Chicago
Business and Professional People for the Public Interest (BPI)
Cabrini Green Legal Aid
Centro De Trabajadores Unidos (CTU)
Chicago Appleseed Fund for Justice
Chicago Area Fair Housing Alliance
Chicago Community Bond Fund
Chicago Council of Lawyers
Chicago Lawyers' Committee for Civil Rights
Chicago Urban League
Children and Family Justice Center at Bluhm Legal Clinic, Northwestern University Pritzker School of Law
The Coalition to End Money Bond
Community Activism Law Alliance
Community Renewal Society
Criminal Justice Task Force, First Unitarian Church
Growing Home
Hana Center
Illinois Justice Project
Imago Dei
Inner-city Muslim Action Network (IMAN)
John Howard Association
Justice and Witness Ministry of the Chicago Metropolitan Association, Illinois Conference, United Church of Christ
Juvenile Justice Initiative
Kenwood Oakland Community Organization (KOCO)
League of Women Voters of Cook County
League of Women Voters of Illinois
Mothers 4 Peace
Mothers Opposed to Violence Everywhere
Nehemiah Trinity Rising
The Next Movement
Office of the State Appellate Defender
Padres Angeles
PASO (West Suburban Action Project)
The People's Lobby
Riley Safer Holmes & Cancila LLP
Roderick and Solange MacArthur Justice Center
Safer Foundation
SEIU Healthcare IL
Showing Up for Racial Justice (SURJ) Chicago
Southside Indivisible
Southsiders Organized for Unity and Liberation (SOUL)
Target Area Development Corporation
Thresholds
Transformative Justice Law Project
Unitarian Universalist Advocacy Network of Illinois
United Congress of Community and Religious Organizations (UCCRO)
Uptown People's Law Center

National Organizations

Brooklyn Community Bail Fund
Center for Constitutional Rights (CCR)
Civil Rights Corps
Clergy for a New Drug Policy
Color of Change
Massachusetts Bail Fund
Mexican American Legal Defense and Educational Fund (MALDEF)
National People's Action
#No215Jail Coalition
Philadelphia Community Bail Fund
Prison Policy Initiative
Sargent Shriver National Center on Poverty Law

cc: Cook County Public Defender Amy Campanelli
Cook County President Toni Preckwinkle
Cook County State's Attorney Kimberly Foxx
Chief Judge of the Circuit Court of Cook County Timothy Evans
Cook County Sheriff Tom Dart
Jesus "Chuy" Garcia, Cook County Board of Commissioners
Marcia M. Meis, Director, Administrative Office of the Illinois Courts

Enclosures

Rule _____. Hearings on Pretrial Release.

(a) Determination of Entitlement to Pretrial Release. In making a determination of whether an accused is entitled to pretrial release, the court shall impose the least restrictive conditions or combination of conditions necessary to reasonably assure the appearance of the accused, the safety of any person or the community, and the integrity of judicial proceedings.

(1) Upon presentment of the accused after arrest, the court shall conduct a hearing to determine whether pretrial release is appropriate pursuant to the provisions of 725 ILCS 5/110 et seq.

(2) Where the court determines that pretrial release is not appropriate pursuant to 725 ILCS 5/110-4, 6.1, and 6.3 because of the nature of the offense charged, for which the proof is evident or the presumption great that the defendant is guilty, and because the State has presented clear and convincing evidence in an adversarial hearing to support a finding that release of the accused would pose a real and present threat to the physical safety of any person or the community, the court shall enter an order denying pretrial release that includes sufficient written findings supporting that denial, including a finding that there is no condition or combination of conditions that could reasonably mitigate any specific danger posed.

(b) Setting Conditions of Pretrial Release. Where the court determines that pretrial release is appropriate:

(1) Monetary Conditions. There shall be a presumption that any condition of release shall be non-monetary in nature, and no monetary condition may be imposed unless:

A. The court conducts an inquiry into the accused's financial resources and ability to pay monetary security, and

B. The court enters a written finding on the record that the accused has the current financial ability to pay the proposed amount of monetary security.

(2) Nonmonetary Conditions. The court shall impose the least restrictive non-monetary conditions that the court determines are necessary to assure the accused's appearance, protect the community from the accused or ensure the orderly administration of justice pursuant to 725 ILCS 5/110-10. Where the court determines that non-monetary conditions of release are necessary and the accused is indigent or otherwise qualifies for appointment of counsel, the accused will not be charged financial costs in connection with such conditions.

(c) Findings of record. All written findings required by this Rule shall be recorded in an approved form and made a part of the record in every case.

Demand the Illinois Supreme Court Commission on Pretrial Practices Recommend Supreme Court Rule

To: Illinois Supreme Court on Pretrial Practices via Hon. Robbin J. Stuckert, Chair

Dear Hon. Robbin J. Stuckert and members of the Illinois Supreme Court Commission on Pretrial Practices:

We the people of Illinois are calling on the Illinois Supreme Court Commission on Pretrial Practices to recommend adoption of a proposed Supreme Court Rule to prohibit incarceration due solely to the inability to afford a money bond as part of its report on pretrial reforms in December 2019. This proposed Supreme Court Rule is supported by more than 70 community organizations, all Cook County justice system stakeholders, and former Attorney General Eric Holder. These diverse constituencies all agree that access to wealth should not determine pretrial freedom and that unaffordable money bonds undermine the presumption of innocence guaranteed by the U.S. Constitution.

Why is this important?

Every year, more than a quarter of a million people are incarcerated while awaiting trial in Illinois. These individuals are treated as if they are guilty until proven innocent and are locked up most often because they can’t afford to pay a money bond. Wealth-based incarceration is destroying our communities by separating parents from their children, workers from their employment, and caregivers from those who need them most.

In 2017, more than 70 community organizations called on the Supreme Court of Illinois to issue a Supreme Court rule that would eliminate this unjust and archaic practice. That call was supported by the Cook County Chief Judge, Public Defender, State’s Attorney, Board President, and Sheriff. Later that year, the Illinois Supreme Court established its Commission on Pretrial Practices to review this unjust system. In December 2019, the commission will release a report with official findings and recommendations for improvement of Illinois’ pretrial justice system. These recommendations could include changes to state law, new Supreme Court rules, or even constitutional amendments.

We are now calling on the Illinois Supreme Court Commission on Pretrial Practices recommend that the Supreme Court of Illinois adopt the proposed rule to end wealth-based incarceration once and for all.

Signed by 1,550 people:

Name	Zip code
Ruby Pinto	60616
Matthew McLoughlin	60641
Benjamin Ruddell	60625
Daniel Epstein	60201
April Eckhardt	61604
Michelle Day	60643

Name	Zip code
Mareva Lindo	60660
Raina Wallace	60624
Bobby Vanecko	60646
Maura Kinney	60647
Mairead Case	60608
Amelia Ishmael	60608
Anna Munzesheimer	60608
Jeremy Washington	60653
Alex Ding	60640
Gary Tabb	48507
Thomas Callahan	60626
Darnell Bobo	60629
Dakota Sillyman	60608
Carly Ilg	60640
Anna McColgan	60660
Emily Coffey	60643
Dave Anians	60459
Karissa Talanian	60647
Patrice James	60616
Brooke Peery	60660
Robert Wallace	60620
Vivian McConnell	60608
Susan Bramlet Lavin	62704
kristi sanford	60626
Amy Eisenstein	60175
Sharlyn Grace	60612
Chris Preciado	60623
Kaitlyn Grissom	60647
Sharon Glassburn	60625
Ellen Mayer	60608

Name	Zip code
Gabriel Carrasquiillo	60634
Tyson Miller	53511
David Moran	60605
Mari Castaldi	60622
Fred Lonberg-Holm	12401
Aneesha Gandhi	60640
bridgit gallagher	60609
Erin Sindewald	60608
Emma Serikaku	60067
Tanuja Jagernauth	60660
Marsha Chomko	62040
Heather Sea	60608
Gavin Kearney	60304
Carly Faison	60558
Jessica Helsinger	33169
Jessica Royer Ocken	60304
Natasha Kohl	60304
Ivan Parfenoff	60657
Sean Kase	60647
Veronica Cortez	60804
Rachel Johnson	60626
Margaret Decker	60615
Anya Parfenoff	60657
Erin Sowers	60304
Peter Maunu	60657
Laura Stempel	60641
Meredith Wilkinson	60616
Caroline Wooten	60609
elizabeth scrafford	62703

Name	Zip code
Christopher Kimmons	60609
Christine Farolan	60517
Lea Palmeno	60641
Robert Manduca	60615
Deanna Pacelli	60304
Kristy Nydam	60657
Lewis Tupper	60645
Lindsey Hammond	60626-3354
Marten Henk	60647
Christina Lorenzo	60646
Sheila Bell	62220
Dave Peterson	60402
Arielle Tolman	60612
Sandra Russel	61108
Stacy Kline	60622
Kevin Pujanauski	60640
Kristoffer Stokes	60304
Keith Berg	60060
Julie M	60462
Patricia Addis	61938
Aurora Pineda	60304
Margaret Collins	60402
John Clinkman	60025
Khalid Bilal	60624
Nora Helfand	97219
Natasha Rodriguez	60618
Katharine Katinas	60402
Dania Daoud	60803
Rebecca Clough	60618
Niall Mangan	60606
Tracy ODowd	60629

Name	Zip code
Seymour Helfand	60091
Steven Serikaku	60660
Tova Markenson	60626
Joseph Crawford	60608
Vincent Kolodziej	60448
Chanel Davenport	60440
Patty Crawford	62467
Hannah Fidler	60651
Kris Clutter	60642
John Kasper	60621
Lynda McClendon	60643
Rachel Mikula	60126
Gabriela Kirk	60626
Elaine Safstrom	60062
Mark Courtney	60615
Anthony Buttitta	60016
Linda Waycie	60056
James Iberg	60201
Madeleine Van Hecke	60126
janice MANDOLINE	60181
Martin Mazzei	60640
Richard Pokorny	60304-1806
Evan Freund	60615
Celeste Flores	60031
BETH Fischer	60130
Carolyn McBride	60616
Camille Farrington	60615
Leslie Roberts	60304
Maria Morales	60651
Kaidrea Stockman	60302
Marian Gamble	60118

Name	Zip code
Shannon Campbell	60647
Jim Parks	60126
Mariana Montes	60639
Sarah Aubry	60640
s Harris	60628
Isabella Peek Weitz	60622
Ralph Lee	60302
Janet Ferguson	60302
Erika Bachner	60305
A Beato	60625
Kathleen Cummings	60622
Bonni McKeown	60644
Hill Wood-Naatz	60194
Anna Reosti	60626
Alice Cottingham	60304
Joyce Champelli	60302
Max Suchan	60651
Kate Walsh	60618
Kayleigh Greenwood	60614
Emily Rajkovac	60657
Deborah Lee	60640
Lara Ghisleni	60610
Andrew Hong	60608
Barbara Lacker-Ware	60640
Tina Dorow	60640
David Toropov	60618
Paula Lazarz	60613
Nancy Easton	60618
Mary Goetting	60304
Sophia Kortchmar	60615

Name	Zip code
Jen Dean	60660
Katy Leduc	60651
Prabhneek Heer	60625
Vanessa Oniboni	60613
Janet Kittlaus	60026
Drake G.	60632
Ama Oforiwaa Aduonum	61761
Elsie Cadieux	61761
Peter Kobak	61606
Megan Selby	60626
James Reid	61701
Debby Funk	61754
Paola Del Toro	60615
Samuel Dixon	60622
Brian Dolinar	61801
Colleen Duffy	60608
Robbie Craig	60443
Harriet Dart	60015
Chez Rumpf	60618
Michael Moran	60647
Maura Scroggs	60614
Scott Aaseng	60644-3834
Miriam Savad	60615
Terry Kinsey	60304
Nolan Wright	62901
Barb Nowak	61007
Luke Walden	60614
Betty Alzamora	60130
Christine Cooper	60613
Jimena Lopez	61614
Dhara Patel	60626

Name	Zip code
Sophia Sarantakos	60615
Kelsey Waite	60615
Ellen Garza	60628-5112
Katy Cesarotti	60532
Anne Haag	60608
Rachelle Soller	60622
Ashley Mills	60609
Eleanor Seaton	85224
Madeline Field	60647
Andrew Ten Eyck	60622
Sophia Manuel	60608
Weslie Bay	60625
marion najac	60202
Shaka Les	60619
sophia newman	60608
Amanda Ruch	60637
Mari Faines	60649
Elena Ailes	60657
Marie Shebeck	60626
Gus Spelman	60612
Jenny Green	60067
Hallie Bezner	60660
Kristina Beligratis	60067
Terri Clark	15213
Sam Letscher	60647
Sameena Azhar	60660
Jesse Self	60659
Macaire Grambauer	60647
Virginia Chesson	60618
N Kanhai	60505
Eleanor Marki	60637

Name	Zip code
Erica Knox	60608
katherine dunford	60623
Meghan Jarpe	60637
Nicole Dobrowolski	60626
Rachel Shrock	60612
Brad Thomson	60647
Iris Lo	60640
Michael Clark	60659
Allison Paulson	60647
Charlotte Cottier	60612
Sherry Conroy	60192
Phillip Ernstmeyer	61801
Tina Sacks	60615
J. Hileman	60618
Sarah Buckman	61802
Jane Hereth	60640
Keith Rose	62035
Benjamin Bontempo	60625
Laurel Chen	05401
Emily Williams	60647
Tara Goodarzi	60618
LaTrice Stewart	46324
Matthew McFarland	60411
Denara Watson	60653
Rochelle Cousineau	60625
Deborah Fenner	60640
b mccloud	80301
Emily Ralph	60130
Lisa Wieczorek	60641
Darnell Leatherwood	60471

Name	Zip code
Dhivya S	60611
Jennifer Brooks	93535
Danielle Scruggs	60626
Ellen Lawrence	60640
Julie Lawrence	60640
April Donerson	60426
Matt Perry	60093
Nicholas Lawrence	60640
Erin Eife	60608
Margot Smith	60154
Tracy Ayala-Dominguez	60505
Ann Russo	60626
Mechthild Hart	60292
Claire Parker	60647
Jacob Cousineau	60625
Sarah Harmon	60164
Lindsay Eanet	60641
Corrigan Nadon-Nichols	60615
Aubrey Dvorak	60660
John Stainthorp	60626
Stephen Weil	60604
Paul Vickrey	60614
Melinda Power	60622
Rosemary OMalley	60625
Karen Alanis	60304
Mariana Karampelas	60602
Jennifer Fertaly	62918
Lisa Oppenheim	60605
Eli Namay	60616
Owen Leddy	60615

Name	Zip code
Sam Heppell	60613
Julia Ryan	60304
Larry Redmond	60643
jan susler	60647
Emily Claypool	60618
Kay Wilson	61761
Christal Coleman	60620
Mark Enslin	61801
Daniel Scherer-Emunds	60622
Alex Kopecky	60622
Henry Tam	60603
Sarah Cocco	60707
Lawrence Marshall	60644
Dwight Stewart	60619
Antonio Bacon	60621
Miranda Zhang	60637
Bennett Smith	60540
Eric Dorsey	60503
Sinclair Gallighe	60506
Andy Williams	60527
Bobby Wright	60565
Greg Skiba	60563
Rebecca Bretz	60647
Noni Lindberg	60615
Brianna Lambrecht	60805
Pauline Taylor	60610
L Pollard	60609
Eric bjela	60625
Evan Freund	60615
E Edreva	60608
Kamona Kay	60608

Name	Zip code
Leo Williams	60608
Alex Apancio	60608
Gavin Hall	60616
Nancy Michaels	60622
Monie Tapp	60637
Madeleine Behr	60601
Cynthia Cotton	61761
Anthony Wulraven	61604
Edward Breitweiser	61701
Mary Moore	61701
Sonny Garcia	61701
Joyce Kaye	61704
Jenny Goves	61704
Emily Breitweiser	61701
Janice Brown	61701
Robert Hackett	61704
George Gordon	61761
Karla Smith	61701
Karl Smith	61701
Chad Kahl	61701
Myra Gordon	61761
Jeff Crabill	61705
Louis Goseland	61701
Emile Garneav	61751
Radiance Campbell	61761
Michelle Gan	60608
Molly Armour	60618
Seth LeDonne	15206
Michael Vincent	60510-2444
Reyad Mahmoud	14845
Jessica Law	60615

Name	Zip code
Sarah Staudt	60613
shayna watchinski	61701
Monica McKeown Gallicho	94521
Roslyn Taylor	60613
Michael Levin	60402
Amanda Oster	60647
Jennifer Castellanos	60099
Zach Taylor	60608
Gloria Picchetti	60613
Jon Bickel	60190
Cynthia Kegel	60610
Rheta Johnson	60189
Victoria Smith	60516
Katie Madden	60634
ANNETTE HOWELL	60647
Richard Clough	60660
Daniel Weinberg	60640
Carolyn Martineau	60614
Richard Cichon	60513
Erica Jordan	60154
Daniel Mackay	60914
Cary Moy	60302
Daniel Espinosa	60304
Susan Horton	60123
JUAN GERACARIS	60202
Patricia Knol	60190
Leslie Shipley	60611
Robertha Medina	60651
Etta Davis	60419
Alexa Lee-Hassan	60612

Name	Zip code
Alexander Somer	33139
Elaine Ford	60614
Sia Bogan	60619
Maria Gonzalez	60656
Johanna Russ	60615
Kristin Collins	60108
Francis Weiss Rabkin	60640
Gemini Garner-Jones	60626
John Comella	19103
salome chasnoff	60660
Ira Kriston	60202
Juan Hernandez	60085
Michael Moody	60626
Sophia Zisook	60614
Christopher Rapisarda	60613
Michael Madden	10956
Janice Gintzler	60418
Tyler He	60616
Susan Kaplan	60607
Amrita Singh	60646
Jennifer Castellanos	60085
Sheila Spica	60016
Maggie McGuire	60657-0496
Betty Erickson	60175
Ricardo Garcia	60629
Kevin Carroll	60626
Rachel Belkov	60647
karen Peterson	60625
Michael Nash	60634
Lydia P.	60647

Name	Zip code
Rachel Caidor	60607
Hannah Oakley	60612
Candace McDonald	60707
Fr. Tom Walsh	60644
Cathryn Crawford	60647-1118
Presley Loranca	60201
Brian Chapman	60625
Katherine Fryer	96821
Mildred Leonard	60087
Lynn Shoemaker	53190
Lucy Mead	97401
Rodrigo Anzures	60804
David Cannon	60542
Kenneth Page	62704
Jordan Megna	60640
Lauren Jordan	60643
Delia Barajas	60804
Nehemiah Hankins	61201
Matthew Klimczak	60516
Danny Mason	60628
Syvicie Aghayere	60637
Cortney Zaret	60657
Paul Safyan	60090
Barbara Youngquist	60203-1515
Jennifer Raber	60640
Dr William M Smith Jr	33852
Maria Baum	60634
Robert Schilling	62812
Lamont Garrett	89052
Peter Gunther	60659

Name	Zip code
Michael Plog	62704
Roger Gonnering	60193
Marilyn Penland	60189
Harmon Greenblatt	60062
Juquita Johnson	60428
Traci Schlesinger	60659
Kaniya Samm	60623
Jonathan Hancock	60622
Patricia Kula	60002
Maggie Shreve	60611
Alex Vir	60025
Reshma Kamath	94536
Brian Waak	60505
Susan Quaintance	60645
Lauren Franzen	60637
Lauren McFarlane	60201
Maureen Ellis	60613
Kendall Granberry	60625
Celine Blando	60513
RONNA STAMM	60202
Alina Mackenzie	60605
Melissa Lawrence	60406-1058
Jeff Czach	60195
Michael Pan	22182
Lindsey LaPointe	60602
Scott T. Johnson, Esq.	60201
Margaret Tucker	62703
Donna Janovsky	60613
Donald Hennig	61616
Emily Gage	60302
Krista Furgerson	62223

Name	Zip code
Ivy Abid	60612
Meredith Doll	60640
Lauren DeLand	60622
Mark Merrill	61455
KAREN NELSON	60068
Rachel B.	60115
Dennis Kreiner	60110
Georgette Foss	60646
T LaRue	60646
Nancy Bush	87540
Christine Drane	60625
Stephanie Maniglia	60657
Rick Simkin	60625
Debra Gleason	60634
James Gibbs	60202
George Pappas	60618-5602
Robin Caldwell	60542
vic hammond	60626
Harold Mitchell	60611
Flayveila Griffith	60302
Lee Dewey	60622
Catherine Luchins	60615
Louisd Gram	60660
steve adler	60625
Nikki Orvis	60626
Carol Jagiello	07403
Ash Samuelsson	60625
Lucas Klein	60661
Annabeth Roeschley	60615
carolyn massey	62301
Daphne Dixon	60428

Name	Zip code
Kim Thomas	61102
Michael Johnson	61821
Kate Goetz	60645
Ivan Velkovsky	61801
Erin Haddad-Null	60615
Sarah Stahly	62704
Sandra Rigsbee	60615
Rick Anderson	60660
Geri Collecchia	60601
Carmen Ringhiser	60611
Maria Kronfeld	60647-1223
Dorothy Silver	60068
Devon Benton	60660
Matthew Brandon	60637
Maliha Ali	60659
Jennifer Gilbert	60534
Ireneusz Kryczka	60305
Nancy Henninger	12800
Marcie Hill	60620
Tonya Beltran	78070
Barbara Sullivan	60004
Jessica Foster	53207
Lauren Woomer	60608
Kara Wagner Sherer	60641-2851
AURORA INSURRIAGA	60617
mary pounder	60661
Liz Buhai-Jacobus	60302
s reinken	60640
Marie LaPosta	60640
Dawn Albanese	60007
S. Smith	60647

Name	Zip code
Elizabeth Bible	61701
Sean Sullivan	60089
Christine E.	60625
Rose Martin	60429
Becca Greenstein	60660
Paul Callahan	60515
Tim Looney	60643
Robert Zieger	78721
Daniel Dornbrook	60068
Jim Khoury	60302
Fay Clayton	60202
Leda Khoury	60302
Julia Kohn	60607
Linda Clark	60605
Rev. Max Burg	60615-1921
Clara Raubertas	60615
Alyssa Carabez	60618
Erin Orozco	60660
Val Rivera	60623
Allison Fradkin	60062
Allan Lindrup	60649
Aaron Lucas	60430
Anayanzi Mendez	60804
Ilene Thornton	60302
Sarah Williams	60614
Jean Bruno	60126
Roger Masson	60304
Alex Matthews	60302
alex p	61455
Olivia Wilks	60618
Lisa Vinebaum	60622
Miclan Quorpencetta	80905

Name	Zip code
Abigail Loughlin	46556
Brian Hicks	60439
Heidi Rees	60563
Leslie Boyd	60452
Philip Hult	618539704
Shani B	60639
Stacey Weiss	60640
Glafira Lopez	90605
Eugene Sampson	60637-3656
Jennifer SanJuan	60625
Vershon Allen	61103
TIMOTHY GARRISON	60640
Kumaran Mudaliar	60616
Jamal Khoury	60302
Julie Cramer	61607
Veronica Presley	60643
David Rechs	60302
Siobhan Connors	60647
Alenka Figa	60640
Edward Thompson	60026
Joyce Hodel	60202-2251
Joseph Tanke	60638
Leuise Crumble	60624
Lydia Shepard	60643
Joseph Cavise	60647
Eileen Jones	60517
Omar Boumali	79901
Darlene Queen	60625
Sophia Bauerschmidt Sweeney	60653
mark novotny	60525

Name	Zip code
Christopher Promis	60615
Phoebe Rusch	60035
Sandi Redman	60077
Marilyn Thompson	60026
Katie Calhoun	60647
alyssa salas	60641
Marissa Dimaranan	60130
Brandi M	60657
Bridget Illian	60660
LINDA HEARN	60643
Martha Escobedo	60630
Megan Callahan	60515
Leonard Cavise	60607
Erica Austin	62703
Jessica McPeek	62703
Dottie Washington	62712
Aaron Douglas	60659
philip craft	60104
Maria Bergh	60623
Olivia Gahan	60614
Stephen Pickering	60625
Larry Hemingway, Sr.	62703
Shaketta Stephens	62703
Max Bever	60625
Rachel Murphy	60647
Annalise Buth	60622
Jay Smith	62711
Jesse Larson	60616
Davif Adamd	60637

Name	Zip code
Brianna Tong	60608
Brianna Lambrecht	60616
kristi sanford	60626
Cynthia Greenwood	60005
Annette Brown	60194
Nora Sharp	60647
Dan Brown	60194
Anna Ernst	60130
Maria Altmayer	60076
Maren Hoopfer	60608
Quade Gallagher	60616
Ted Miin	60626
JoLynn Doerr	60618-7232
Mark Weitkum	53402
Brian Cerullo	60608
Mary Santi	60047
Shirley Adams	60202-4441
Maria Alicia Ibarra	60616
Juliet Eyraud	60642
Colleen Vahey	60305
Pat Carpenter	62711
Grace Pai	60615
Bryon Medina	60633
Jaelyn Logan	62703
James Kliss	60640
Meredith Kachel	60618
Joseph Eichler	60647
Patrick Fowler	60640
Kevin Niemiec	60625
Gary Kleppe	60181-1902
Raoule Hilton	60651

Name	Zip code
Kevin Lindemann	60190
Rachel Darter	60647
Morgan Paulus	60626
Geoff Guy	60608
Ben Levenson	60640
Terry Jones	60440
James Schwartz	60301
Hannah Bollman	60640
Jims Porter	60660
Michele Childers	60637
Dan Bailey	60187-5908
laila sadat	60462
Rosalie Riegle	60201
MARY M LANE	60005
Stephen Oren	60659-1840
Stacey Austin	60305
Alex Garcia	60608
Jean Osberger	60647
Jessica Weller	60618-6722
Joe O’Connor	60608
Margaret Thurman	62704
Alex Kogan	60618
Lauren Savastio	60302
Michael Reda	60423
Diane Thodos	60201
Eli Namay	60616
Thomas Wisdom	60647
LeRoy knohl	60203
Jennifer Joiner	62702
Lynn Meissner	60626
Nicholas Fane	60625
Dolores Pino	60053

Name	Zip code
Alex Stein	60605
Janice Moore	60201
Jane Baldinger	69302
Alex Rixon	60608
Beth Lanford	60645
Jessica Rodzen	60076
Colin Sphar	60625
Linda Miranda	60625
Lauren Conway	60202
Alicia Locher	60647
Julia Dratel	60618
Thomas Bell	60619
Anthony Walraven	61604
Mary Shelden	60201
Morgan Chase	60647
Andrew Gardner	61554
Harry Elger	61614
Khabran Peters	61547
Stephen Bowie	60640
Kate Mauldin	60606
Mery Matthews	61571-9306
Patricia Fron	60643
Kelsie Hope Harriman	60637
Bria Dolnick	60626
Joyce Blumenshine	61614
Darryl Li	60637
Nebula Li	60640
S.K. Chidambaram	60625
Robbie Klinger	60605
James Fennerty	60647

Name	Zip code
Lilian Jimenez	60651
Kimberly Seymour	60611
Terah Tollner	60613
Robert Hartzer	60559
Sidney Hollander	60640
Michelle Zacarias	60611
Kristine Scott	60430
Lark Mulligan	60660
Jeff Ammons	60611
ANN ROSEWALL	60201
David Black	61103
sarah yousuf	60626
Jason Pfetcher	60640
Claudia Valenzuela	60626
Hetali Lodaya	60601
Dale Griffin	60202
Gemini B	60626
Joshua Jones	60647
Sonja Rajkovich	60068
Christina Uzzo	60622
Jesslyn Jobe	62901
Phillip Jaros	60559
Janine Hoft	60656
e. kadera	60555
Beth Babbitt Borst	60201
Daniel Cox	60618
Kennedy Bartley	60647
Laura Garza	60546
Charles Bridge	60085
Michele Cotrupe	60615
Monica Talbi	60608

Name	Zip code
Lupita Aguila	60608
Laytoyia Comb	60423
Faith Hook	60657-5492
Joel Moses	60025
Sam Walker	60640
Tobias Rodriguez	60640
Aryana McPike	62711
Christophe Ringer	60615
Christopher Griffin	60624
Elisabeth Scott	60546
Esau Chavez	60652
Elizabeth Ricks	60614
Karen Wilson	61605
David Kniker	62443
Helena Jordan	60649
Kim Grice	60419
Lauren Herold	60640
Joan Padilla	61081
Betty Birkhahn—Rommelfanger	60077
JEFFREY JOHNSON	61601-6296
Barbara Hawkins	60419
Caitlin Sinclair	60613
Monica Saavedra	60154
Maria Collado	60618
Deborah Gomez	60402
Monserat Morales	60804
alex escobedo	60618
Robert Mayfield	60402
Annaloisa Flores	65302
Catrice Rodges	60617
Seong-Ah Cho	60615

Name	Zip code
Elisa Maravilla	60614
Jesus Sanchez	60402
Barbara Ghoshal	60016
Katlin Wachholz	60619
Robionne Williams	62704
Nathan Buikema	60647
Alexa Solorzano	60101
Kenji Kuramitsu	60616
Jennifer Jeck	60637
Ari Karafiol	60615
Teagan Bigger	60615
Addie Domske	60615
Lisa Rademacher	60637
Julia Rademacher-Wedd	60637
Shirley LaBeau	60429
Timothy Biel	60477
Jewel Bingham	60422
John McLees	60605
Jeffery Jones	60612
Yaacov Delaney	60612
Finley Campbell	60615
Rose Etta Martin	60429
Betty Steele	60429
Lesly Morgan	60472
Janice Gintzler	60418
Cindy Ortega Ramos	60605
Christine Peters	60053
Breeza Camacho	60804
Donna Birkhahn	61615
Liz Sheridan	60613

Name	Zip code
LAVERN SWEARENGEN	60629
Charlene Hill	60628
Shelley Smith	46256
Nora Kyger	60607
Alia Poulos	60604
Mary Kreller	60616-6023
Monica George	60640
Ellen Kennedy	60653
Barbara Sheehan	60453
Julie Davis	60014
Katherine Adams	60626-2623
Alice Mar-Abe	60647
Ted Smukler	60076
Emily Redfern	60609
Amy Siebenmorgen	60609
Allison Anderson	60004
STEPHEN DAVIS	60516
Rachel Chruszczyk	63939
Jerry Davis-EL	60471
Daniel Newman	60626
Jonathan Wilson	60637
Mary Carroll	60614
Tiffany Swann-Covington	60532
Maghen Lykins	60647
Elizabeth Collins	60126
Dennis Davis	60630
Valerie Parker	61701
Saren Snyder	60625
Joan Hollingsworth	60614
Andrea Swanson	60188-1340

Name	Zip code
Fanny Moy	60516
Jamie Phelps	60637
Heather Ferguson	60616
Emily Davis	60640
Margaret Fulkerson	60304
CAMERON RAAB	61821
Jeannie Covert	61801
Sara Isenberg	62568
Stefanie Smith	61801
Nick Owens	61820
Joseph Taylor	61822
Marci Adelston-Schafer	61821
Pamela Hill	61801
Renee Trilling	61821
ellen craig	60657
Cristina Headley	60640
Aviva Futorian	60614
Ameenah R	60422
Umeeta Sadarangani	61822
Samuel Oehlert	61821
Daniel Cotter	60603
Thomas Eovaldi	60201
William Strom	60614
Scott Baseler	61822
Wayne Giampietro	60069
Sean Hux	60660
Grace Young	61801
Matthew Currey	61821
Marcey Goldstein	61801
Jennifer Castellanos	60085

Name	Zip code
David Chavez	60517
Daniel Feeney	60201
Amelia Piazza	60657
Audrey Dunford	60623
Carol Inskeep	61801
Ann Hettinger	61821
Gillian Daniels	60611
Theresa Kleinhaus	60640
Nathaniel Flack	60614
Scott Rauscher	60022
Danielle Hamilton	60607
Megan Pierce	60614
Abraham Corrigan	60607
Lucia Heppner	60607
Debra Loevy	60607
Julie Goodwin	60203
Derek Erdman	60607
Alison Leff	60607
Fern Kory	61920
Andrew Garden	60613
John Caplice	60642
Michael O'Connor	60626
Julia Angelica Muhsen	60608
Narmin Hasanova	60660
Blake Bunting	60607
Frank Newell	60654
Barbara Murphy	60620
Andrew Shaw	61821
Viki Perr	85283
Sanjana L	60614
Nicole Eveland	61821

Name	Zip code
Keianna Bates	60429
Jenniffer Thusing	60638
Armani Madison	60607
Joseph Person	69613
Joan Steinman	60091
Julie Pascoe	62711
Joshua Tepfer	60302
Carl Royal	60005
Sean Goodwin	60202
omavi shukur	60615
Daryle Brown	60302
Edmond Shegog	60411
megan Rosenfeld	60647
Lawrence Wojcik	60201
Victoria Stewart	60647
Nicole Levonyak	60101
Brenda Tippett	60628
Shelmun Dashan	60642
Warren Silver	60613
Rochelle Epperson	61938
Sylvia Mandel	61820
Lauren Barrett	60202
Patti Pattison	61801
Rebecca Powell	61820
Mary Dean	60626
Jennifer Roth	61801
Meredith Bennett-Swanson	60610
Darrius Frazier	61920
Dirk Beetner	62025
Melinda Ek	60302
Danielle Loevy	60625

Name	Zip code
Kianu El	60617
Kevin Salzstein	60606
Judith Levin	60640
Andi Piper	60616
Allison Mcardle	61821
JOYCE MAYS	60643
Sarah Wild	60623
Andrea Rundell	61801
Carolyn Klarquist	60614
Sonya Naar	60618
Robert Slobig	60602
Geoff Ower	61801
Eileen Borgia	61802
Kara Miller	60660
Yaya Torres	46321
Qudsiyyah Shariyf	60615
Savannah Felix	60640
Anthony Graefe	60302-1133
Fatoumata Magassa	60615
Kiran Misra	60615
Adam Mahoney	60201
Kathryn Howard	10562
Mary Jackson	60619
Shreyas Gandlur	61820
Catherine Denial	61401-1874
Caronina Grimble	60623
Lela Grimble	60153
Margaret (Betsy) Rubin	60615
Patricia Faire	60619
Julie Orlemanski	60640
Janelle Yanez	60201

Name	Zip code
lori deradoorian	60626
Nancy Heil	60525
Jeffrey Wilson	26501
Nikita Zook	15224
Angela Evans	60201
Clinton Nichols, III	60608
Zoe Palmer-Pike	60626
Wayne Smith	61822
Amy Settergren	60660
Rishona Taylor	60643
Candace McDonald	60707
Lawrence Murry	60629
Jacqueline Akines	60636
Deanna Lange	60640
Kathar CIKANEK	60613
Loid Duncan	60619
mary pendergast	60625
Alexandra Block	60601
Melanie Yeames	60601
ann souza	29653
Patricia Riemer	60194
Joseph Canino-Montanez	60478
Huma Manjra	90066
Marce Holmquist	37311
Eric Wells	60462
Bessie Hendley	60425
LaVerne Bell	60619
Denise Robinson	33168
Gaylon Alcaraz	60617
Tina Spratley	60619
James Frazier	98188

Name	Zip code
Joe Jensen	60625
Burt Rosenberg	60611
Jon McGinty	61063
Kaleena Slate	60640
Mason Donahue	60609
Asha Edwards	60637
April Harper	60645
Ben Miller	20001
Alyssa Wood	60651
Lamaria Bates	20148
Phyllis Coulter	60622
Billie Callahan	61109
Matthew McFarland	60411
Clark Logemann	61107
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Zelma Webb	60643
David Holmes	60202
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Matthew Daniels	60610
VICKI FORTE	45212
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Isaac Simmons	61701
Claudia Washburn	61853
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Julia Rowley	60640
Marilyn Scott	60564
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Kara Bucci	60608
Dylan Smith	60606
Priscilla bakos	60106
Saundra Lightfoot	60619

Name	Zip code
Rachel Williams	60546
Sue Stock	60302
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Bob Innocervi	60188
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Emily Gage	60302
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Jim Parks	60126
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Trenace Ford	60302

Name	Zip code
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Kathleen Irion	60126
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Marcia Sezer	60302
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Mary Wacker	60302
Jeanette Mancusi	60302
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Andrew Jennings	60626
Asha Sawhney	60201
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Josh Klingenstein	60642
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Heather Johnson	60647
Marissa Korte	60614
Tiera Rainey	85705
Ann F. Stanford	60625
Marj Monaghan	60641
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Brian Urbazowksi	60641
Erica Zazo	60641
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Natalie Lira	60616
Kevin McLemore	60618
Harlie Was, Jr.	60617
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Kirsten Peachey	60302
Kathlene Schultz	60056
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Charlene Hill	60628
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Carter Kelly	60640
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Jeanne Kearly	60073
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Name	Zip code
Aun Lee	60526
Cathy Mallij	60012
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Laura DeBolt	60487
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Mary Mathews	60045
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Name	Zip code
Shelby Silvernell	60647
Marcif Powers	60546
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Matt Kellner	60637
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Namnou Burkhouse	60516
R Boykin	60302
Kelly Lonn	60487
Gretchen Bucthaus	60402
Sarah Corbi	60304
Nora Abbormo	60304
Susan Paweski	60305
M. Fitzhenry	60130
Lars Juhl L	60302

Name	Zip code
Haiky Borden Lyna	60302
Hope Asya-Broughton	60626
Brittany Weber	99204
Steffany Bahamon	60613
Claudia Kowalchyk	10003
Kristi Leach	60618
Tim Harris	60107
Izzy M	15227
Carla Williams	60643
Cynthia Turner	60628
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Earl Streets	60645
Bobbie Henry	60643
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David Henry	60603
Althea Hammond	60620
Tanya Watkins-Hall	60620
Gregory Freeman	60620
Victor Scotti	60643
Marilyn Bross	60643
Brenda Dorsey	60440
Pamela McNabb	60653

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Barbara Sutton	60643
Cora Long	60643
Monique Long	60643
Katherine Brock	60643
Ralph Jester	60643
James Ross	60803
Ernest Leggs	60643
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Tony Abram	60409
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Antoine Bailey	60637
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Amy Louvier	62298
Em Rabelais	60607
Ole Elfe	31901
Joseph Henderson	60048
Giudi Weiss	60637
Veronica Shaheen	60626
Allena Bradley	60653
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Maria Bell	60637
Alexandra Fryer	60647
Dagmar Schalliol	60302
Michael Ericksen	60302
Derek Fugate	60618
Alice Singleton	60201

Name	Zip code
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Sarah Oberholtzer	60620
Chris Preciado	60623
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Jennifer Gladkowski	07304
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Marie Snyder	60647
Lulu Johnson	11221-1365
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Silvia Saucedo	60632
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Sarah Enloe	60304
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Rebecca Anderson	60640
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Melissa Pavlik	60660
Monica Carmean	60626
Terry Foland	61501
Rebecca Ryan	53545

Name	Zip code
David Ryan	53545
Eliezer Rolon	60641
Penny Donehoo	60056
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Kevin Daly	60005
Bill Harris	60640
Kristi Lin	60647
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Max Gelula	60608
Jason Gusse	60642
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Liz Kantor	60641
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Amy Morton	60614
Betty Miller	60194
Colin Drozcloff	60647
Jack Denry	60103
Jon Montgomery	60103
Jane Jesudoss	60007
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Judy Wilson	60194
Margaret Gire	60194
Mary Illg	60133
Carolyn Meneely	60007
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Name	Zip code
Laura Urbaszewski	60641
Erica Zazo	60641
Lola Odusanya	60641
Sandra Boone	60641
Jeremy Rosen	60613
Henry Shah	60616
Kate Maley	60626
Nolan Downey	60601
Ryan Deringer	60660
Andrea Porter	60616
Kate Walz	60304

3110 W. Taylor Street | Chicago, IL 60612
312•953•3797
info@anypositivechange.org

Written Testimony to The Illinois Supreme Court Commission on Pretrial Practices

The Chicago Recovery Alliance (CRA) writes today to voice our emphatic support for bail reform in Illinois. There are numerous public health risks associated with policing and incarceration such as an increase in HIV risk,[1, 2] unemployment,[3] loss of housing,[4] injury and violence[5], and lower rates of recovery among people with a substance use disorder (SUD).[6]

However, this testimony focuses specifically on the life-and-death high stakes of bail reform. The Chicago Recovery Alliance is the world's longest running overdose prevention program. Our organization's mission is to support people actively using drugs in reducing drug-related harm and we do this by supporting any positive change as a person defines it for themselves. In 2018 alone we distributed 80,000 doses of naloxone (the opioid overdose antidote) to people who needed it most and have worked for decades to provide overdose prevention training and technical assistance across this city, and across the country. People with a SUD experience high rates of policing and arrest. Approximately half of incarcerated people have substance use-related conditions. People with a SUD and people in recovery are also often profiled and arrested despite being innocent. The risk of unnatural death and overdose is exacerbated by arrest and incarceration, but bail reform can help mitigate this risk of premature and preventable death. Our 10,000+ program participants are exactly the people who are most vulnerable to dying related to policing, arrest, and detention.

The exact mechanisms of risks for death among our participants as a result of pretrial detention are twofold: 1) untreated withdrawal symptoms and 2) loss of tolerance resulting in extremely heightened fatal overdose potential. We will examine them separately.

Untreated withdrawal symptoms— Sudden and untapered cessation of consuming substances—as occurs with arrest and incarceration—induces withdrawal symptoms.

Withdrawal from alcohol and benzodiazepines are considered dangerous enough that the process should be medically monitored so that the acute and dangerous physiological symptoms can be closely monitored and managed. Death from unmonitored alcohol and/or benzodiazepine withdrawal is not uncommon, including prominent Illinoisans.[7] Opioid withdrawal is often mistakenly dismissed as "uncomfortable, but not life threatening". However, opioid withdrawal can cause dehydration and metabolite imbalance that can lead to death.[8] This happens most frequently in an incarceration setting where people are restricted from acquiring or consuming household ingredients that can correct these imbalances. This is the cause of death of 21-year-old Sebastiano Ceraulo, who died on the 4th day of his detention in the DuPage County Jail as well as Toya Frazier, a 45-year-old woman who died on her 2nd day of incarceration in Champaign.[9] While rates of substance use disorder are high among detainees (often over 50%), only about ¼ of jail administrators report ever having the infrastructure to safely manage withdrawal.[10, 11]

Loss of tolerance and overdose death— The #1 cause of death for people leaving incarceration is drug overdose because of reduced opioid tolerance. Further, people with reduced or no tolerance to opioids are particularly vulnerable to the wide fluctuations in the strength of the illicit opioid market in the era of fentanyl-contaminated illicit opioid supply. It is important to note that, while overdose death during detention definitely does happen,[12] far more deaths happen upon being released.[13] We have heard this fact cited as a rationale against bail reform claiming that it's the releasing that puts people at risk, not the pretrial detention itself. This is absolutely an incorrect, uninformed rationale. Loss of tolerance is a process,[14, 15] so the longer a person is detained, the bigger the tolerance loss. In the context of shorter periods of detention—as should be the case with pretrial detention—every single additional hour that a person is detained increases their tolerance loss and fatal overdose potential. It is important to note that tolerance loss is dangerous and potentially deadly for 1) illicit opioid use,[16] 2) people using opioids for pain,[17] and 3) people taking methadone or buprenorphine for treatment of opioid addiction.[18]

Pretrial detention undermines our democracy by incarcerating people who are presumed innocent. Pretrial incarceration has negative public health and social quality of life effects. At CRA, we are most urgently concerned that pretrial incarceration is literally killing Illinoisans. Bail reform that reduces the rate of pretrial detention is thus a lifesaving ethical imperative.

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Challenging E-Carceration

challengingecarceration.org
james@mediajustice.org

Honorable Robbin J. Stuckert
Chief Judge
DeKalb County Courthouse
133 W. State Street
Sycamore, IL 60178

June 28, 2019

RE: Illinois Supreme Court Commission on Pretrial Practices

Dear Honorable Robbin J. Stuckert,

As the Director of Challenging E-Carceration, I am pleased to submit testimony to the Illinois Supreme Court Commission on Pretrial Practices. Challenging E-Carceration is an Illinois-based project of the national social justice organization Media Justice. For the past three years we have been involved in gathering evidence about the harms done by electronic monitoring in the pretrial and other contexts. In addition, we have conducted public forums on this issue and worked with Illinois Representative Carol Ammons to pass legislation earlier this year that will for the first time mandatory collection of data on electronic monitor usage in the post-prison setting. This is the first such legislation in the country.

We have also done considerable research into the use of electronic monitors for individuals who have been released pretrial. Based on our investigations, we have found the following:

1. Advocates of electronic monitoring have produced no evidence that pretrial electronic monitoring contributes to a higher rate of court appearance
2. The conditions imposed as part of the house arrest which virtually always accompanies electronic monitoring programs consistently hinder an individual from accessing employment, obtaining medical treatment, participating in court-ordered programs and taking part in family and community activities.[1] While a promise of "freedom" accompanies the implementation of electronic monitoring, those freedoms often meld into a set of liberty-depriving rules and regulations which serve no constructive purpose.
3. Placing an individual on house arrest often creates great burdens and stress for their family members and/or those with whom they share accommodation. Rules restricting the presence of alcohol and firearms as well as frequent intrusive searches and phone calls create a situation where the house become more like a site of incarceration than a home.
4. Many jurisdictions impose daily user fees and set-up costs for electronic monitoring which are prohibitive. In some instances, these can far exceed the cash bail a person might have had to put up to secure their release. Moreover, failure to pay these user fees can impact a person's ultimate dispensation, either contributing to an enhanced sentence or more restrictive probation conditions.

[1] See cases of "Jarrett" and Lavette Mayes in Chicago Community Bond Fund," Punishment Is Not A Service: The Injustice of Pretrial Conditions in Cook County," 2017

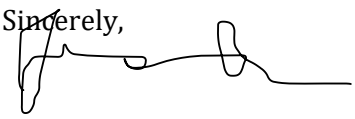
5. The restrictions of house arrest may inhibit care-giving for which the person on the monitor is responsible. This may mean the inability to accompany family members to medical appointments, to look after children (especially those who may not live with them), or to respond to emergencies.
6. The conditions of house arrest often mimic the pressures and restrictions of jail, leading the individual to accept an unreasonable plea bargain or even pleading guilty to a charge for which they are not legally culpable simply to avoid those conditions. In many instances the acceptance of a plea bargain connects to the burdens the monitor places on a charged person's loved ones and the desire to bring relief to them.
7. In cases where domestic violenceis involved, locking a person in their house may leave them in a position where they cannot escape a potentially violent or even life-threatening situation without risking reincarceration.
8. While data is limited in regard to EM, the overwhelming evidence of racial discrimination and disparity in the criminal legal system generally raises serious questions as to whether or not electronic monitoring can be applied in a manner that does not replicate the racism of the broader system.
9. When EM with GPS capacity is used, a vast amount of location tracking data is captured and stored in a way over which the person on the monitor has no control. Given the recent revelations about intrusions by Facebook and the increasing marketization of online data, this is a cause of concern for the privacy and human rights of the person on the monitor. [2]

For these reasons, we strongly recommend that the Commission encourage a ban on the use of electronic monitoring in the pretrial context. We are convinced that the money and human resources used for monitoring would be much better spent on programs that support people awaiting trial through options such as public housing, substance abuse and mental health treatment, job training programs, and services such as rides and reminders that ensure people can attend their court dates and court-mandated activities.

If electronic monitoring is to be used, we urge local authorities to implement the Guidelines for Respecting the Rights of Individuals on Electronic Monitors, a document developed by Challenging E-Carceration and endorsed by more than 50 organizations nationally, including the national offices of the ACLU, the NAACP, the National Association of Criminal Defense Lawyers, and the Pretrial Justice Institute. I have attached the Guidelines and list of the signatories here for your reference.

We look forward to your report and recommendations and remain ready to answer any queries you might have about electronic monitoring. If you would like further explanations of any of the contents of this letter or would like more information, feel free to contact me at james@mediajustice.org or by phone 217 778 2354.

Sincerely,



James Kilgore

Director, Challenging E-Carceration

[2] See J. Kilgore and E. Sanders, "Ankle Monitors Aren't Humane, They're Another Kind of Jail., Wired, August 4, 2018

#ChallengingEcarceration

Guidelines for Respecting the Rights of Individuals on Electronic Monitors

The criminal justice system's use of electronic monitors, typically in the form of ankle bands, has more than doubled in just over a decade. Electronic Monitoring threatens to become a form of technological mass incarceration, shifting the site and costs of imprisonment from state facilities to vulnerable communities.

Moreover, most evidence indicates electronic monitors are disproportionately used on people of color. The use of these devices is increasing with electronic monitoring now more frequently employed as a part of parole, probation and pretrial release, as well as in juvenile justice and immigration cases. Combining house arrest with the use of monitors with GPS tracking has made electronic monitoring more punitive and powerful as a method of surveillance.

To make matters worse, monitoring programs lack a transparent regulatory framework that respects the human rights of those being monitored and their family or household members. This situation demands action. Thus, we advocate the following guidelines for implementation of electronic monitoring:

1. Opportunity, rights, and dignity. Rules for electronic monitoring must facilitate freedom of movement and accommodate basic daily needs while not imposing unnecessary restrictions. Those monitored should have the freedom to carry out parenting and other caregiving activities and have access to employment, legal services, medical treatment, education, pro-social and religious activities. Those being monitored should be able to take part in family and community life.

2. No net widening. The net of electronic monitoring must not widen by capturing larger numbers of currently monitored groups (e.g. youth, immigrants), by targeting new groups (e.g. those with mental illness), nor by adding monitoring to less restrictive forms of supervision.

3. Economic and racial justice. Electronic monitoring should not be a vehicle for perpetuating inequality. Monitoring should not disproportionately be applied to people of color or poor people.

4. Transparency. Rules for electronic monitoring should be transparent. They should be based on an assessment of the needs and risks of the individual, and not on a generic, "one size fits all" set of conditions and restrictions.

5. No financial burdens. The governing jurisdictions should bear all costs of the technology and supervision. Monitored Individuals and their family members should pay no daily fees or other charges.

6. Credit for time served. Since electronic monitoring is a form of custodial detention, those subjected to it should receive credit for time served under surveillance.

7. Respect for privacy rights. Authorities must institute safeguards for data collected from GPS-based monitors in order to respect the privacy rights of those being monitored. Regulations must limit access to data and restrict the type of data collected. The method of retention and storage should be regulated as well, and concrete time frames for deleting data should be set.

8. Humane, minimally invasive technology. Electronic monitors should not be enhanced to enable monitoring biometrics or brain activity, recording audio or video, inflicting pain, remotely administering pharmaceuticals, or spying on family members and loved ones. The should also not be implanted as microchips.

9. Due process. Individuals on monitors should have the right to due process. This includes the ability to appeal the terms and conditions of their electronic monitoring regimes and, where appropriate, allowing them access to their own tracking data.

10. GPS as a last option. GPS-enabled monitors used under house arrest are the most restrictive form of community sanction and should be the last option, never the default. Terms for the GPS devices should be minimal, and they should never be imposed for life.

About These Guidelines

#ChallengingEcarceration is a project led by James Kilgore of the Urbana-Champaign Independent Media Center in partnership with the Center for Media Justice. These guidelines were developed via a consultation process that included organizers, attorneys, policy makers, researchers and individuals critically impacted by electronic monitoring. They are based on an original draft written by James Kilgore.

Contact Us

James Kilgore,
#ChallengingEcarceration Project
james@mediajustice.org

Myaisha Hayes,
Center for Media Justice
myaisha@mediajustice.org

THE CENTER FOR MEDIA JUSTICE
www.mediajustice.org

#ChallengingEcarceration

A List of Our Endorsers

American Civil Liberties Union (ACLU)
All of Us or None
American Friends Service Committee
Arts & Democracy
Brooklyn Community Bail Fund
Business and Professional People for the Public Interest (BPI)
California Coalition for Women Prisoners
Center for Media Justice
Chicago Appleseed Fund for Justice
Chicago Community Bond Fund
Civil Rights Corps
East Bay Community Law Center
Economic Opportunity Council of Suffolk, Inc.
Electronic Frontier Foundation
Ella Baker Center for Human Rights
Essie Justice Group
EXPO of Wisconsin
Families for Freedom
First Followers Reentry
Generation Justice
Grassroots Leadership
Human Rights Defense Center
Holla
International CURE
Justice Policy Institute
JustLeadershipUSA
Line Break Media
Massachusetts Bail Fund
Media Alliance
National Association for the Advancement of Colored People (NAACP)
National Association for Public Defense
National Association of Criminal Defense Lawyers
National Guestworker Alliance
National Lawyers Guild
New Sanctuary Coalition
OVEC-Ohio Valley Environmental Coalition
Philadelphia Community Bail Fund
Pretrial Justice Institute
Prison Policy Initiative
Project Rebound (SF State University)
Richmond Community Bail Fund
Sargent Shriver National Center on Poverty Law
Smart Decarceration Initiative
Southern Center for Human Rights
Southerners on New Ground
The Bronx Freedom Fund
The Fortune Society
The Greenlining Institute
The National Council for Incarcerated and Formerly Incarcerated Women and Girls
The People's Press Project
The Release Aging People in Prison/RAPP Campaign
Urbana-Champaign Independent Media Center
Voices for Racial Justice
Washington Square Legal Services Bail Fund
#FedFam4life

Contact Us

James Kilgore,
#ChallengingEcarceration Project
james@mediajustice.org

Myaisha Hayes,
Center for Media Justice
myaisha@mediajustice.org

THE CENTER FOR MEDIA JUSTICE
www.mediajustice.org

Dear Judge Stuckert:

On behalf of The Leadership Conference on Civil & Human Rights and the 24 undersigned organizations, we are pleased to submit the attached public comment to the Illinois Supreme Court Commission on Pretrial Practices. The Leadership Conference on Civil and Human Rights is a coalition charged by its diverse membership of more than 200 national organizations to promote and protect the rights of all persons in the United States. **As Illinois reconsiders the pretrial procedures of its criminal justice system, we ask the Commission to consider eliminating secured money bail and to recognize the potential and proven harms of risk assessment instruments (RAIs) and avoid their use.**

We thank the Commission for the opportunity to provide this public comment. We ask that the guidelines articulated in our letter be incorporated in the Commission's ultimate recommendations for pretrial reform in Illinois. We are encouraged by the court's commitment to improving pretrial justice and look forward to its continued partnership with all stakeholders, particularly those harmed by inequitable pretrial practices and mass incarceration at large.

If you have any questions related this letter, please feel free to contact me directly.

All the best,

Sakira Cook
Director, Justice Reform Program
The Leadership Conference on Civil and Human Rights
The Leadership Conference Education Fund
1620 L Street NW, Suite 1100
Washington, DC 20036
202.263.2894 – Direct
cook@civilrights.org
www.civilrights.org | @civilrightsorg

The Leadership Conference
on Civil and Human Rights

1620 L Street, NW
Suite 1100
Washington, DC
20036

202.466.3311 voice
202.466.3435 fax
www.civilrights.org

June 28, 2019

Honorable Robbin J. Stuckert
Presiding Judge, 23rd Judicial Circuit
DeKalb County Courthouse
133 W. State Street
Sycamore, IL 60178

Submitted electronically to pretrialhearings@illinoiscourts.gov

RE: Illinois Supreme Court Commission on Pretrial Practices

Dear Judge Stuckert:

On behalf of The Leadership Conference on Civil & Human Rights and the 24 undersigned organizations, we are pleased to submit this public comment to the Illinois Supreme Court Commission on Pretrial Practices. The Leadership Conference on Civil and Human Rights is a coalition charged by its diverse membership of more than 200 national organizations to promote and protect the rights of all persons in the United States. **As Illinois reconsiders the pretrial procedures of its criminal justice system, we ask the Commission to consider eliminating secured money bail and to recognize the potential and proven harms of risk assessment instruments (RAIs) and avoid their use.**

Currently, 6 out of 10 people in U.S. jails are awaiting trial, and people who have not been found guilty of a crime account for 95 percent of all jail population growth between the years 2000-2014.[i] In the landmark 1984 ruling *U.S. v. Salerno*, Supreme Court Justice William Rehnquist wrote, "In our society, liberty is the norm, and detention prior to trial or without trial is the carefully limited exception."[ii] By law, pretrial detention may be ordered only if an arrested person presents an unmanageable risk to public safety or risk of flight.[iii] We ask the Supreme Court Commission to consider eliminating money bail and utilizing a pretrial model that would implement the least restrictive conditions needed for each individual in the pretrial space.

Pretrial reform is a critical civil rights issue because money bail discriminates against poor and working-class individuals and results in unequal justice outcomes based on wealth and/or racial status. Research suggests that half of Americans would struggle to come up with $400 in the case of an emergency,[iv] yet in jurisdictions using secured money bail, a person's ability to pay often substantial amounts of money determines who stays in jail while presumed innocent, and who goes home. Research shows that Black and Latino people are

more likely to be detained pretrial than white people with similar charges and backgrounds. For example, studies have found that African Americans face higher money bail amounts and are less likely to be released on conditions that don't involve paying money.[v] Another study concluded that simply being Black increases an accused person's odds of being jailed pretrial by 25 percent.[vi] People who cannot afford to pay money bail receive harsher case outcomes; they are three to four times more likely to receive a sentence to jail or prison, and their sentences are two to three times longer.[vii] Further, women are less likely to be able to afford money bail. The Prison Policy Initiative found that women in jail before trial earned little more annually than the average bond amount of $10,000.[viii] Finally, money bail practices do not appear to make the public any safer.[ix]

While we support the abolition of secured money bail, we strongly believe that adoption of risk assessment instruments (RAIs) in lieu of money bail is not a positive reform. We believe that jurisdictions should not use RAIs in pretrial decision making and should instead move to eliminate secured money bail, while releasing most accused people pretrial. Algorithmic decision-making tools like RAIs reflect and even exacerbate the biases found in the data sets used to train them. Further, in many jurisdictions, the use of RAIs has failed to reduce the number of people incarcerated pretrial.[x] RAIs also carry the potential to increase racial disparities in pretrial detention under the guise of objectivity.[xi] Algorithmic decision making tools like RAIs are only as smart as the inputs to the system. Many algorithms effectively only report out correlations found in the data that was used to train the algorithm. As a result, biases in data sets will not only be replicated in the results, they may actually be exacerbated. For example, since police officers disproportionately arrest people of color, criminal justice data used for training the tools will perpetuate this correlation. Thus, automated predictions based on such data—although they may seem objective or neutral—threaten to further intensify unwarranted discrepancies in the justice system and to provide a misleading and undeserved imprimatur of impartiality for an institution that desperately needs fundamental change.

In 2018, The Leadership Conference released a statement of principles (included with this letter) outlining ways to mitigate the harms of RAIs. The statement has been signed by more than 100 concerned organizations from across the country, including the American Civil Liberties Union, the NAACP, community organizations, bail funds, and public defense services. This statement of principles should not be interpreted as an endorsement of RAIs. Rather, these principles provide tools to mitigate the harm of RAIs in places where they are already in use or where their implementation is inevitable. Below is a summary of our recommendations from the statement of principles, which we submit to you for inclusion in your ultimate recommendations.

> **Principle 1:** Pretrial risk assessment instruments must be designed and implemented in ways that reduce and ultimately eliminate unwarranted racial disparities across the criminal justice system. Those engaged in the design, implementation, or use of risk assessment instruments should also test ways to reduce the racial disparities that result from using historical criminal justice data, which may reflect a pattern of bias or unfairness.
>
> **Principle 2:** Pretrial risk assessment instruments must be developed with community input, revalidated regularly by independent data scientists with that input in mind, and subjected to

regular, meaningful oversight by the community. The particular pretrial risk assessment instrument chosen should be trained by, or at least cross-checked with, local data and should be evaluated for decarceral and anti-racist results on a regular basis by the local community, including people impacted by harm and violence, and people impacted by mass incarceration, and their advocates.

Principle 3: Pretrial risk assessment instruments must never recommend detention; instead, when a tool does not recommend immediate release, it must recommend a pretrial release hearing that observes rigorous procedural safeguards. Such tools must only be used to significantly increase rates of pretrial release and, where possible, to ascertain and meet the needs of accused persons before trial, in combination with individualized assessments of those persons. Risk assessment instruments must automatically cause or affirmatively recommend release on recognizance in most cases, because the U.S. Constitution guarantees a presumption of innocence for persons accused of crimes and a strong presumption of release pretrial.

Principle 4: Neither pretrial detention nor conditions of supervision should ever be imposed, except through an individualized, adversarial hearing. The hearing must be held promptly to determine whether the accused person presents a substantial and identifiable risk of flight or (in places where such an inquiry is required by law) specific, credible danger to specifically identified individuals in the community. The prosecution must be required to demonstrate these specific circumstances, and the court must find sufficient facts to establish at least clear and convincing evidence of a substantial and identifiable risk of flight or significant danger to the alleged victim (or to others where required by law) before the exceptional step of detention of a presumptively innocent person, or other onerous supervisory conditions can be imposed. All conditions short of detention must be the least restrictive necessary to reasonably achieve the government's interests of mitigating risks of intentional flight or of a specifically identified, credible danger to others. Any person detained pretrial must have a right to expedited appellate review of the detention decision.

Principle 5: Pretrial risk assessment instruments must communicate the likelihood of success upon release in clear, concrete terms. In accordance with basic concepts of fairness, the presumption of innocence, and due process, pretrial risk assessment instruments must frame their predictions in terms of success upon release, not failure. Further, such tools should only predict events during the length of the trial or case—not after the resolution of the open case.

Principle 6: Pretrial risk assessment instruments must be transparent, independently validated, and open to challenge by an accused person's counsel. At minimum, the public, the accused person, and the accused person's counsel must all be given a meaningful opportunity to inspect how a pretrial risk assessment instrument works. The accused person's counsel must also be given an opportunity to inspect the specific inputs that were used to calculate their client's particular categorization or risk score, along with an opportunity to challenge any part—including non-neutral value judgments and data that reflects institutional racism and classism—of that calculation.

The Leadership Conference

We thank the Commission for the opportunity to provide this public comment. We ask that the guidelines above be incorporated in the Commission's ultimate recommendations for pretrial reform in Illinois. We are encouraged by the court's commitment to improving pretrial justice and look forward to its continued partnership with all stakeholders, particularly those harmed by inequitable pretrial practices and mass incarceration at large. If you have any questions, please contact, Sakira Cook, Director, Justice Reform Program, at cook@civilrights.org.

Sincerely,

1. African American Ministers In Action
2. CatholicNetwork.US
3. Center on Race, Inequality, and the Law at NYU School of Law
4. Colorado Freedom Fund
5. Defending Rights & Dissent
6. EHD Advisory
7. Fight for the Future
8. Freedom Inc
9. Global Justice Institute, Metropolitan Community Churches
10. Impact Fund
11. Juntos
12. Media Alliance
13. Media Mobilizing Project
14. National Association of Social Workers
15. National Association of Social Workers- Illinois
16. Portland Freedom Fund
17. POWER
18. Prison Policy Initiative
19. Richmond Community Bail Fund
20. Robert F. Kennedy Human Rights
21. The Greenlining Institute
22. The Leadership Conference Education Fund
23. The Leadership Conference on Civil and Human Rights
24. Tucson Second Chance Community Bail Fund
25. Voice of the Experienced

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[i] Zhen Zeng "Jail Inmates in 2016 (NCJ 251210)." *Bureau of Justice Statistics* (February 2018). Retrieved from. https://www.bjs.gov/content/pub/pdf/ji16.pdf

[ii] *United States v. Salerno*, 481 U.S. 739, 755 (1987).

[iii] Jones, Cynthia. ""Give Us Free: Addressing Racial Disparities in Bail Determinations" (2013). *Articles in Law Reviews & Other Academic Journals*. Paper 301.
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The Leadership Conference

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CHICAGO COMMUNITY BOND FUND

June 30, 2019

Judge Robbin J. Stuckert
DeKalb County Courthouse
133 W. State Street
Sycamore, IL 60178

RE: Illinois Supreme Court Commission on Pretrial Practices

Dear Honorable Judge Robbin J. Stuckert,

I write to you as a person who has been directly impacted by pretrial incarceration and unaffordable money bond. I also spoke to the Commission during the Chicago listening session on June 17, 2019. I spent 52 days in Cook County Jail because I couldn't afford my $7,500 bond, an amount that was totally unaffordable for my family. Without the help of the Chicago Community Bond Fund, I may have been in jail for more than a year while fighting my case. The time I spent in jail and separated from my family caused many hardships that could have been avoided if my bond were affordable. After my bond was paid, I was able to help my wife and family move after the property we lived in was foreclosed on. I was able to keep working to support my family, and I was able to receive proper medical care for my respiratory asthma condition.

When you read my words, you're not just reading my story. You're reading the story of thousands of other people who have been locked up simply because they couldn't afford their money bonds. I'm just a representation of the folks that don't have a voice in this conversation. Being able to fight my case from the outside was much better because the judge, the State's Attorney, and others looked at me differently. Most importantly, I was able to dress appropriately for my court dates, and I was able to fight my case with less pressure. If my bond hadn't been paid, I would have probably accepted a plea deal because I couldn't bear to be locked up any longer.

There are a lot of people that can't afford to get out of jail because of their financial circumstances, even if the bond amount is low. People go back and forth from jail to court for months—sometimes years—because they can't afford to pay a money bond. Wealthy people are able to bond out and fight their cases on the outside because they have money. The current

system is unbalanced. Nobody should be locked up because they can't afford to pay their money bond.

Money bond isn't keeping our communities safe. It's simply allowing those with money to have freedom while those that don't are locked up. Money bond should be eradicated. People shouldn't have to suffer because they do not have money. Everyone should be able to fight their case from a place of freedom, like I was.

We need to stop pushing this problem under the rug. We need to stop talking about this problem and start doing something about it. This commission has the power to fix this problem and change the lives of thousands of people. We must stop locking people up because of their financial situations.

Sincerely,

Flonard Wrencher
Volunteer

350 Fifth Avenue, 34th Floor
New York, NY 10118-3299
Tel: 212-290-4700
Fax: 212-736-1300; 917-591-3452

HUMAN RIGHTS WATCH

HRW.org

June 26, 2019

Hon. Robbin J. Stuckert
Chief Judge, 23rd Judicial Circuit DeKalb County Courthouse
Chair, Supreme Court Commission on Pretrial Practices
133 W. State Street
Sycamore, IL 60178

Supreme Court Commission on Pretrial Practices
Pretrial Comment
AOIC Probation Division
3101 Old Jacksonville Road
Springfield, IL 62704

By post and email: Pretrialhearings@illinoiscourts.gov

Dear Commissioners,

Human Rights Watch is an international non-profit organization dedicated to investigating and reporting on human rights violations throughout the world, including in the United States.[1] Human Rights Watch has reported on violations in over 90 countries and, as a founding member of the International Campaign to Ban Landmines, was a co-laureate of the Nobel Peace Prize in 1997. Our US Program focuses on, among other things, human rights compliance within the criminal legal system.

Human Rights Watch has produced two major reports and many shorter pieces documenting the human rights concerns raised by the money bail system employed in nearly all US criminal courts and recommending reforms. The reports specifically highlighted the systems in New York[2] and California,[3] but the principle problems of money bail and pretrial incarceration apply similarly in other states, including Illinois.

In light of the commission's exploration of pretrial reforms, we write today to share some of our findings and recommendations. We recommend Illinois adopt pretrial reforms that ameliorate the substantial harms of the money bail system by reducing pretrial detention overall while removing financial requirements for release. Human Rights Watch urges avoiding the use of risk assessment tools—that is, mathematical formulas to estimate the likelihood that an individual will commit some future misconduct—because they make recommendations based on statistical estimates and

[1] "About Us," Human Rights Watch, accessed June 24, 2019, https://www.hrw.org/about-us.
[2] Human Rights Watch, *The Price of Freedom: Bail and Pretrial Detention of low Income Nonfelony Defendants in New York City*, December, 2010. https://www.hrw.org/report/2010/12/02/price-freedom/bail-and-pretrial-detention-low-income-nonfelony-defendants-new-york
[3] Human Rights Watch, *"Not in it for justice": How California's Pretrial Detention and Bail System Unfairly Punishes Poor People*, April, 2017. https://www.hrw.org/report/2017/04/11/not-it-justice/how-californias-pretrial-detention-and-bail-system-unfairly

profiles rather than individualized evidence, they have inherent racial and class bias, and because they will not guarantee reductions in pretrial incarceration rates. Instead, pretrial reform should honor the presumption of innocence by greatly limiting who is eligible for pretrial incarceration in the first place, and by requiring individualized hearings with rigorous evaluations of evidence, procedural requirements, and standards of proof, before a court can order incarceration.

The Harms of Money Bail and Pretrial Incarceration

Unnecessary use of pretrial incarceration betrays the presumption of innocence, a fundamental guiding principle of the US legal system, by keeping people in jail who have not been convicted of a crime. Our California report documented that between 2011-2015, close to half-a-million people, were subject to felony arrests and held in pretrial detention, but never found to be guilty of any crime, an unjust punishment that cost taxpayers millions of dollars.[4] Poor people jailed pretrial, with bail set, face the miserable options of taking on heavy debt to pay bail, remaining in custody until their cases resolve, or pleading guilty to gain freedom sooner, regardless of actual guilt.

Human Rights Watch documented families losing homes, selling cars, and foregoing basic living necessities to afford bail.[5] People who stay in jail lose jobs, cannot care for their children or disabled relatives, miss needed health care, while suffering boredom, violence, disease and physical and mental anguish.[6] In California, according to Human Rights Watch's analysis of data from six counties, the vast majority of people released from jail as "sentenced" on low-level felonies and misdemeanors were released before the earliest possible date they could have gone to trial. In other words, to assert their innocence at trial, they would have had to stay in jail longer than they did by pleading guilty.[7] Practitioners throughout the country, including Illinois, have told us that similar pressure to plead guilty exists in their jurisdictions that use money bail. Given the coercion inherent in this choice, convictions of innocent people are inevitable. The large-scale use of pretrial detention, resulting in pressured guilty pleas, damages the credibility of our criminal legal system.

These harms are more profound because they apply only to those too poor to pay bail, while the wealthy have the benefit of a system that honors the presumption of innocence.
Given the well-documented inequities of the money bail system, Human Rights Watch commends the many stakeholders in the Illinois courts and government who are taking serious steps to reform the way courts impose pretrial incarceration. However, we are concerned that these reforms will be derailed by reliance on risk assessment tools that influence who is imprisoned and who is released.

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[4] Human Rights Watch, *Not in it for Justice: How California's Pretrial Detention and Bail System Unfairly Punishes Poor People*, April, 2017, pp. 42-43.https://www.hrw.org/report/2017/04/11/not-it-justice/how-californias-pretrial-detention-and-bail-system-unfairly
[5] Human Rights Watch, *Not in it for Justice: How California's Pretrial Detention and Bail System Unfairly Punishes Poor People*, April, 2017, pp. 65-77. https://www.hrw.org/report/2017/04/11/not-it-justice/how-californias-pretrial-detention-and-bail-system-unfairly
[6] Human Rights Watch, *Not in it for Justice: How California's Pretrial Detention and Bail System Unfairly Punishes Poor People*, April, 2017, pp. 51-64. Stories describing this situation are found throughout the report. https://www.hrw.org/report/2017/04/11/not-it-justice/how-californias-pretrial-detention-and-bail-system-unfairly
[7] Human Rights Watch, *Not in it for Justice: How California's Pretrial Detention and Bail System Unfairly Punishes Poor People*, April, 2017, p. 56. https://www.hrw.org/report/2017/04/11/not-it-justice/how-californias-pretrial-detention-and-bail-system-unfairly

Risk Assessment Tools are a Dangerous, Unfair Substitute

The Illinois Supreme Court has released a policy statement indicating its intention to support the use of risk assessment tools for pretrial incarceration decision-making, as a foundation for a system that conforms to the presumption of innocence and provides due process through individualized decisions.[8] Human Rights Watch disagrees that these tools serve these objectives and strongly advises against their use in deciding the pretrial fates of accused people.[9]

Risk assessment tools used in the criminal legal system purport to estimate the statistical likelihood that a person will commit some misconduct (missing a court date or arrest for a new crime, in the case of pretrial prediction) in the future. They take discrete facts about the person, without providing individualized context for those facts, then compare that person to a large dataset of other people for whom the same discrete, non-contextualized facts exist. They then assign a likelihood of future misconduct by the person based on the percentages of successful or unsuccessful outcomes from the large dataset.

In other words, the tools make predictions that are used to determine freedom or imprisonment based on how other people have behaved in the past and statistical estimates, in other words, based on profiles. The criminal legal system, however, should ground decisions in an individual's own actions, not those of other people. The lack of consideration of individual context leads to unjust outcomes. For example, the most commonly used tool, developed by the Laura and John Arnold Foundation (Arnold), scores past missed court dates against a person, but does not distinguish between situations, such as in when the person missed court due to illness and appeared the next day, as opposed to when a person deliberately leaves a jurisdiction to avoid prosecution. The same tool scores for "prior violent conviction" without distinguishing between a misdemeanor battery involving a push and an attack with a knife causing serious injury. It similarly scores for "prior felony conviction," which can range from drug possession for personal use to murder.[10]

Despite their claims, the tools do not predict future crime. To the extent they predict anything, it is future arrest. While an individual's behavior partly determines likelihood of arrest, police behavior is a significant determining factor. People living in over-policed communities or otherwise subject to aggressive policing face higher risk of arrest for the same behavior. For example, someone who illegally possesses a firearm in a community with a low police presence will have little risk of being stopped and searched, while someone in a highly policed community will have a high risk of stop, search and arrest. Historic and current racial and class bias in policing, including discrimination by individual

[8] Illinois State Bar Association, *The Bar News*, "Illinois Supreme Court Adopts Statewide Policy Statement for Pretrial Services." https://www.isba.org/barnews/2017/05/01/illinois-supreme-court-adopts-statewide-policy-statement-pretrial-services (accessed June 24, 2019)
[9] Human Rights Watch, "Human Rights Watch advises against using profile-based risk assessment in bail reform," July, 2017. https://www.hrw.org/news/2017/07/17/human-rights-watch-advises-against-using-profile-based-risk-assessment-bail-reform
[10] Laura and John Arnold Foundation, "Public Safety Assessment: Risk factors and formula." https://www.psapretrial.org/about/factors (accessed June 24, 2019)

officers, racial profiling and biased deployment patterns, strongly influences arrest results.[11] Nationally, white and black people use illicit drugs at roughly equal rates, but police arrest black people at substantially higher rates for these offenses.[12]

Risk assessment tools generally do not use race or economic class specifically in their formulas. However, they use other factors that stand as proxies for race and class, including arrest history, employment history, residential stability and education levels. This means that the profiles have a built-in bias, reflective of and amplifying the biases already existing in the criminal legal system and in US society as a whole.[13] While the tools may not be designed to be racist, because they rely on racially biased inputs, their outputs or recommendations will reflect that bias.[14] In addition, because of their claim to scientific objectivity, they may provide a veneer of legitimacy to that discrimination.

Risk assessment tools are often promoted as an effective mechanism to reduce pretrial incarceration, but, in fact, they can be used just as easily to increase incarceration. While New Jersey, which used the tools as part of a comprehensive set of recent pretrial reforms, has had significant reduction in pretrial incarceration rates,[15] Kentucky, which also uses the tools, has not.[16] In Lucas County, Ohio, implementation of the Arnold tool increased the rate of pretrial detention and increased the percentage of people pleading guilty on their first court appearance.[17] The scoring system of any risk assessment tool can be adjusted to fit more or less people into the various risk categories, thus allowing it to be manipulated to raise or lower the numbers of people released or detained. Santa Cruz County in California adjusted its tool's "decision making framework" and doubled the number of people assigned to release with supervision.[18] If judges control the scoring system and implementation of the tools, as they did in Kentucky[19], given the effect of pretrial detention pressuring guilty pleas that move court calendars rapidly,[20] it is likely that risk assessment tools will not result in reductions in pretrial incarceration.

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[11] Elizabeth Hinton et al., "An Unjust Burden: The Disparate Treatment of Black Americans in the Criminal Justice System," *Vera Institute of Justice*, May 2018. https://storage.googleapis.com/vera-web-assets/downloads/Publications/for-the-record-unjust-burden/legacy_downloads/for-the-record-unjust-burden-racial-disparities.pdf (accessed June 24, 2019)

[12] Human Rights Watch, *Every 25 Seconds: The Human Toll of Criminalizing Drug Use in the United States*, October, 2016. https://www.hrw.org/report/2016/10/12/every-25-seconds/human-toll-criminalizing-drug-use-united-states

[13] Elizabeth Hinton et al., "An Unjust Burden: The Disparate Treatment of Black Americans in the Criminal Justice System," *Vera Institute of Justice*, May 2018. https://storage.googleapis.com/vera-web-assets/downloads/Publications/for-the-record-unjust-burden/legacy_downloads/for-the-record-unjust-burden-racial-disparities.pdf (accessed June 24, 2019)

[14] Laurel Eckhouse, "Big data may be reinforcing racial bias in the criminal justice system," *Washington Post*, February 10, 2017. https://www.washingtonpost.com/opinions/big-data-may-be-reinforcing-racial-bias-in-the-criminal-justice-system/2017/02/10/d63de518-ee3a-11e6-9973-c5efb7ccfb0d_story.html?utm_term=.0bd98097310d (accessed June 24, 2019)

[15] New Jersey Judiciary, 2017 Report to the Governor and the Legislature, February 2018. https://www.judiciary.state.nj.us/courts/assets/criminal/2017cjrannual.pdf

[16] Megan Stevenson, *Assessing Risk Assessment in Action*, (December 8, 2017), George Mason Legal Studies Research Paper No. LS 17-25. https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3016088 (accessed June 24, 2019)

[17] Human Rights Watch, *Not in it for Justice: How California's Pretrial Detention and Bail System Unfairly Punishes Poor People*, April, 2017, p. 91.

[18] Santa Cruz County Probation Department, Alternatives to Custody Report 2015, April 2016, p.11. file:///C:/Users/raphlij/Downloads/Snapshot-5956.pdf; Human Rights Watch, *Not in it for Justice: How California's Pretrial Detention and Bail System Unfairly Punishes Poor People*, April, 2017, pp. 99-100. https://www.hrw.org/report/2017/04/11/not-it-justice/how-californias-pretrial-detention-and-bail-system-unfairly

[19] Megan Stevenson, Assessing Risk Assessment in Action, (December 8, 2017), George Mason Legal Studies Research Paper No. LS 17-25. https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3016088 (accessed June 24, 2019)

[20] Human Rights Watch, *Not in it for Justice: How California's Pretrial Detention and Bail System Unfairly Punishes Poor People*, April, 2017, pp. 59-62. https://www.hrw.org/report/2017/04/11/not-it-justice/how-californias-pretrial-detention-and-bail-system-unfairly

These inherent problems—decision-making based on non-contextual statistical predictions, racial and class bias, and subjectively adjustable scoring—are reason enough to reject use of the tools by a state seeking to implement an equitable system that respects the presumption of innocence. Additionally, the tools are not especially accurate[21] and rely on secretive formulas and data that makes it difficult, if not impossible, for defendants to understand how their scores were generated in order to challenge their recommendations.[22] The tools run counter to basic principles undergirding the US legal system, including that each person should be judged as an individual. International human rights law protects an individual's right to liberty from arbitrary curtailment, either through arbitrary laws or through arbitrary enforcement of the law.[23] The Inter-American Commission on Human Rights has emphasized that pretrial custody decisions should not be made by reference to pre-set formulas, patterns or stereotypes, but, instead, must be grounded in reasoning that contains specific, individualized facts and circumstances justifying such detention.[24]

Pretrial Reform Without Risk Assessment

Human Rights Watch recommends reforming the pretrial detention system by eliminating or strictly limiting money bail, but without replacing it with risk assessment tools. New York state recently passed a law that requires release for people accused of most lower-level categories of crimes, while requiring hearings with improved procedural guarantees for those eligible for detention. [25] Community organizations and national advocacy groups are supporting a pretrial reform framework, called "Preserving the Presumption of Innocence," which similarly favors release for lower-level categories of crimes, rigorous procedures for detention hearings for those eligible, and prohibition on the use of statistical prediction on risk assessment. [26] Human Rights Watch strongly supports this framework for reform. The city of Philadelphia recently changed policy to increase pretrial release, without relying on the tools, and found no significant increase in rates of new arrests or missed court appearances.[27]

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[21] Julia Angwin et al., "Machine Bias," *ProPublica*, May 23, 2016, https://www.propublica.org/article/machine-bias-risk-assessments-in-criminal-sentencing; Rowan Walrath, "Software Used to Make 'Life-Altering' Decisions Is No Better Than Random People at Predicting Recidivism," *Mother Jones*, January 17, 2018. https://www.motherjones.com/crime-justice/2018/01/compas-software-racial-bias-inaccurate-predicting-recidivism/ (accessed June 24, 2019)

[22] The Arnold tool has some degree of transparency about the factors it considers and how they are weighted. See Laura and John Arnold Foundation, "Public Safety Assessment: Risk factors and formula." https://www.psapretrial.org/about/factors However, Arnold has been criticized for not revealing how it developed its algorithms, why it used the data it chose to develop the system, whether it performed validation, and, if it did, what the outcomes were. John Logan Koepke and David G. Robinson, "Danger Ahead: Risk Assessment and the Future of Bail Reform," *Washington Law Review*, Vol. 93, December, 2018, p. 1803. http://digital.law.washington.edu/dspace-law/bitstream/handle/1773.1/1849/93WLR1725.pdf (accessed June 24, 2019)

[23] Article 9(1) of the International Covenant on Civil and Political Rights (ICCPR). https://treaties.un.org/doc/publication/unts/volume%20999/volume-999-i-14668-english.pdf (accessed June 24, 2019) The US has ratified the ICCPR.

[24] Inter-American Commission on Human Rights, Report on the Use of Pretrial Detention in the Americas, OEA/Ser.L/V/VII, Doc. 46/13 (2013), para. 186. https://www.oas.org/en/iachr/pdl/reports/pdfs/Report-PD-2013-en.pdf (accessed June 24, 2019); The United States has signed, but not ratified, the American Convention, and as such is not legally bound by its provisions. However, the Inter-American Commission's guidance is a useful and authoritative guide to the protection of fundamental human rights. This is particularly true in this area, because the American Convention's due process guarantees are in many respects similar to those guaranteed under US law and by international instruments binding on the United States.

[25] https://www.courtinnovation.org/sites/default/files/media/document/2019/Bail_Reform_NY_Summary.pdf The New York law does not get rid of money bail in all cases, but restricts its use. It does not prohibit risk assessment, but does not require or encourage its use. It does set standards on the tools to mitigate their harms.

[26] Los Angeles Community Action Network, "Preserving the Presumption of Innocence: A New Model for Bail Reform," http://cangress.org/wp-content/uploads/2018/07/Preserving-the-Presumption-of-Innocence-Final-1.pdf (accessed June 24, 2019)

[27] Aurelie Ouss and Megan Stevenson, "Evaluating the Impacts of Eliminating Prosecutorial Requests for Cash Bail," February 17, 2019. file:///C:/Users/raphlij/Downloads/SSRN-id3335138.pdf (accessed June 24, 2019)

Illinois has an opportunity to reform its pretrial system in a way that increases fairness and respect for the rights of pretrial defendants without sacrificing public safety. Risk assessment tools have been heavily marketed as a shortcut to that goal, but, by their inherent nature, they fail to deliver the required fairness and may simply replace one unjust system with another. The state can achieve reform by respecting the presumption of innocence and providing for pretrial incarceration only where there is concrete evidence, proven through an adequate court process, that an individual poses a serious and specific threat to others if they are released. Human Rights Watch recommends having strict rules requiring police to issue citations with orders to appear in court to people accused of misdemeanor and low-level, non-violent felonies, instead of arresting and jailing them. For people accused of more serious crimes, Human Rights Watch recommends that the release, detain, or bail decision be made following an adversarial hearing, with right to counsel, rules of evidence, an opportunity for both sides to present mitigating and aggravating evidence, a requirement that the prosecutor show sufficient evidence that the accused actually committed the crime, and high standards for showing specific, known danger if the accused is released, as opposed to relying on a statistical likelihood.

Sincerely,

_____

John Raphling
Senior Researcher, US Program
Human Rights Watch
11500 W. Olympic Blvd., Suite 608
Los Angeles, CA 90064

I am a Licensed Clinical Social Worker and while currently retired have been a social worker for approximately 50 years, many of those years working for Metropolitan Services of Chicago. What I have observed is that there is not equal protection under the law when someone with resources can pay for bail, be free to work to support their family/ pay attorney fees compared to someone who can not pay bail and can not support the family, can not work on his/her case, etc. Additionally the family of the incarcerated person is impacted by loss of income and emotional support. The family then may turn to the limited support of the government for welfare, food stamps, etc while the government pays for the incarceration, room and board, guards, the medical bills of the inmate. The children are impacted and often need additional emotional help and have school issues due to the disruption of the family. Persons should not be detained due to lack of bail money or resources. It is a matter of fairness under the law. Persons who are dangerous should not be released regardless of their resources. Our jails and prisons are too costly and we also need to only detain those who are a threat to others. Our money would be better spent giving drug treatment, housing, education for adults.
Louise McCown

Hi,
I support No Money Bond because it separates the wealthy and the non-wealthy. Those who are arrested are asked to pay bond and if they can't then they are sent to jail to await their pretrial hearing while those who are able to post bond and go free. This is grossly unfair and especially to black and brown people. Those who can't make bond and are in prison may lose their jobs, lose their children to DCFS, lose income and in the end, may be found not guilty! HB3347 has built in help such as reminder calls and transportation assistance so they can attend their pretrial hearing.

I support HB 3347.
Linda Waycie

This Tennessee brought to light many problems with money bonds. It includes the President of TAPBA acknowledging "illegal practices" but doing nothing, sadly. There are dozens more reasons i support ending money bonds. Marce Holmquist https://www.timesfreepress.com/news/local/story/2018/apr/15/ex-bail-agent-sheriffs-wife-hunfair-advantage/468350/

What exactly is the purpose of bail bond? Yes, we want an arrestee to appear on a court date. But please consider that the arrestee has not been convicted of a crime yet. Is it proper to place in prison a person who is simply too poor to post bond?

Yes, we want to protect alleged victims. The Chicago Tribune this week is highlighting women who have been victimized and some killed, by intimate others whom courts sent back to the community with misdemeanors.

But we know that in Ferguson, Missouri poor people, mostly those who are black or brown, are arrested in order to pad funding for a municipality. Their arrests fund city operations, in effect.

In 2014, I went to Washington, D.C. to participate in an act of civil disobedience regarding children crossing our southern border. I walked past the Supreme Court with its stone wording about equal justice for all. As I passed the Supreme Court, I thought, "Ha, if one is of European ancestry, maybe, but otherwise this phrase is a cliché and not based in truth."

Until we have a legal system that indeed assures justice for all, bail bond stands a great chance of ruining a potentially innocent person's life, or being used to punish a person who is culturally different from the judge.

Janice Gintzler

To: the Commission on Pre-trial issues
From: Barbara Kessel, constituent of Rep. Carol Ammons

As a volunteer doing program at the Urbana County Jail for ten years, I have gotten to know some of the people who are there the longest - gun charges and people charged with sexual crimes.They are there for a long time, primarily because they have to wait six months for the results of the State Lab for prints and DNA analysis. It used to be four months a few years ago but has gotten worse.

This time lag could be so easily cured by additional resources from the State of Illinois to the Crime Laboratory.

The consequence of this lag is that when the evidence is exonerating, the case is dismissed and the person, generally a man, has just spent months to years in jail for nothing. Call it an Innocence tax.

On some occasions, the States Attorney does not send the material in to the lab, as they are attempting to sweat a plea out of the defendant; only when the defendant's lawyer indicates they are willing to go to trial do they send it in to the State Lab, and six months later, discover that the State has no case. This is an abuse of detainee's rights.

Barbara Kessel

State of Illinois
JB Pritzker
Governor

IGAC
Illinois Guardianship and Advocacy Commission

Dr. Mary L. Milano
Director

Human Rights Authority
Legal Advocacy Service
Office of State Guardian

June 26, 2019

Via email: **Pretrialhearings@illinoiscourts.gov**
Pretrial Comments
AOIC Probation Division
3101 Old Jacksonville Road
Springfield, IL 62704

Re: **Legal Advocacy Service**
Illinois Guardianship & Advocacy Commission,
Statement on Pretrial Reform in the Illinois Criminal Justice System

Stakeholder Interest

Legal Advocacy Service ("LAS"), is a division of the Illinois Guardianship and Advocacy Commission. When an individual with mental illness is arrested and awaiting adjudication of his or her criminal matter, a treatment team within the jail may initiate a civil proceeding to involuntarily treat that person with psychotropic medication if certain statutory criteria are met. Our agency serves as appointed counsel for those individuals in such contested proceedings at Cermak Health Services within Cook County Jail.[1] In other counties throughout the state, it is unclear what, if any, mental health treatment is provided while defendants await trial.[2]

As set forth herein, LAS is in favor of pretrial reform but encourages the Commission to develop any risk-based system of justice without stigma and without prejudice towards those with mental illness. As explained below, any meaningful reform of pretrial practices should acknowledge the urgent need to provide necessary training and infrastructure for mental health services in conjunction with this much-needed modernization. A mindful approach to the intersection of mental illness and the criminal justice system at the earliest point-of-contact is not

[1] In Cook County Jail, it is estimated that between 20 and 30 percent at any given time have a mental illness. *See* https://www.cookcountysheriff.org/departments/mental-health-policy-advocacy/

[2] The consensus is that access to psychiatric care appears to be worse in jails than in prisons. *See, e.g.*, https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2661478/

only warranted for the dignity of our clients but it would promote judicial economy and save costs at various inflections points.

Statement in Support

Pretrial reform is overdue. With the passage of the Bail Reform Act of 2017 and the formation of Illinois Supreme Court Commission on Pretrial Practices, an opportunity is here to finally meet an important obligation. Individuals with mental illness "are among the most disadvantaged members of our society, and when they end up in the criminal justice system, they tend to fare worse than others. People with mental illness are less likely to make bail and more likely to face longer sentences."[3] One recent study reports that "in every county in the United States with both a county jail and a county psychiatric facility, more seriously mentally ill individuals are incarcerated than hospitalized."[4] For those with a psychiatric condition, it is estimated that only about 40% of jail inmates were taking medication for their illness at the time of their arrest.[5] This jarring statistic reinforces the need for better community care and more robust linkage among providers to increase medication compliance and reduce recidivism. We expect that sheriffs at jails all across Illinois would concur that many of their "repeat" offenders would benefit from mental health services and substance abuse treatment (not additional jail time or compounded criminal charges).

Mental illness plays a significant role in how long an individual remains awaiting disposition of their criminal matter. "In Florida's Orange County Jail, the average stay for all inmates is 26 days; for mentally ill inmates, it is 51 days. In New York's Riker's Island, the average stay for all inmates is 42 days; for mentally ill inmates, it is 215 days."[6] Here, in Illinois, the statistics are likely similar or worse. Too often, individuals with mental illness languish in jail, awaiting results of a behavioral clinical exam ("BCX") so they can "be made fit" to resolve a minor offense (*e.g.* trespassing or shoplifting) – when that individual is eventually "restored to competency" to engage in a simple plea over a minor offense, months and months have elapsed; worse, as they wait for their next court date to finally resolve said matter, they sometimes cease taking medication and the fitness process starts all over again. Put another way, what would usually take days or weeks for someone to resolve his or her pending criminal matter, takes months and months due to the systemic dysfunction of how our criminal justice system handles mental illness. It is expensive and inhumane.

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[3] Alisa Roth, Insane: America's Criminal Treatment of Mental Illness 4 (2018).

[4] Serious Mental Illness (SMI) Prevalence in Jails and Prisons, (2016), https://www.treatmentadvocacycenter.org/storage/documents/backgrounders/smi-in-jails-and-prisons.pdf

[5] Andrew P. Wilper, MD, MPH, corresponding author Steffie Woolhandler, MD, MPH, J. Wesley Boyd, MD, PhD, Karen E. Lasser, MD, MPH, Danny McCormick, MD, MPH, David H. Bor, MD, and David U. Himmelstein, MD, The Health and Health Care of US Prisoners: Results of a Nationwide Survey (2009), https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2661478/

[6] Serious Mental Illness (SMI) Prevalence in Jails and Prisons, (2016), https://www.treatmentadvocacycenter.org/storage/documents/backgrounders/smi-in-jails-and-prisons.pdf

While we support the Commission's interest in pivoting to a risk-based form of pretrial assessment, we urge those involved to disenthrall themselves from any implicit or explicit biases associated with mental illness when designing such risk-based computations for purposes of pretrial release and bonds. "Having a mental health condition does not make a person more likely to be violent or dangerous. The truth is, living with a mental health condition makes you more likely to be a victim of violence, four times the rate of the general public. Studies have shown that 1 in 4 individuals living with a mental health condition will experience some form of violence in any given year."[7] Furthermore, if the central factor of assessing someone's "risk" for release into the community is his or her mental illness (and lack of medication compliance), the criminal court's remedy should not be further detention but engagement with local mental health facilities and providers. There are *civil* remedies and routes available (but not widely utilized) that can solve many of the ostensible dilemmas of the stakeholders in the criminal courts. So, for a meaningful development of a risk-based pretrial system, we urge the Commission to involve various mental health organizations that can help dispel various myths, prejudices, and misconceptions.

Given the above, is entirely unclear what "justice" is achieved when defendants with mental illness are subject to disproportionate pretrial practices. Their bonds are unfairly different, their disposition window is longer, and they are released with little-to-no community linkage. The cycle repeats and compounds until our jails have begun to look more and more like mental health facilities (in form only and not in substance). It has become the norm and it cannot continue.

Respectfully submitted,

Matthew R. Davison
Legal Advocacy Service
Illinois Guardianship & Advocacy Commission
Matthew.Davison@illinois.gov
312-520-7270

[7] Sarah Powell, Dispelling Myths on Mental Illness, (2015), https://www.nami.org/blogs/nami-blog/july-2015/dispelling-myths-on-mental-illness

COOK COUNTY HEALTH

Toni Preckwinkle
President, Cook County Board of Commissioners

John Jay Shannon, MD
Chief Executive Officer, Cook County Health

June 25, 2019

Attn: Pretrial Comments
AOIC Probation Division
3101 Old Jacksonville Road
Springfield, IL 62704

Dear Commission Members:

On behalf of Cook County Health, we appreciate the opportunity to submit comments to the Illinois Supreme Court's Commission on Pretrial Practices.

Cook County Health (CCH) is one of the largest public health systems in the nation. We have a longstanding history of providing care to all Cook County residents, regardless of their ability to pay or insurance status, through our network of hospitals, regional outpatient centers, community health centers, a comprehensive HIV and infectious disease specialty center, and at the Cook County Jail and Juvenile Temporary Detention Center. CCH also includes the Cook County Department of Public Health, serving most of suburban Cook County, and CountyCare, the largest Medicaid managed care plan serving Cook County Medicaid beneficiaries.

CCH has a unique perspective on the health needs of the justice-involved, both as a provider of care within Cook County's correctional facilities, and more recently in collaborative efforts with justice-system partners to leverage CCH's resources and expertise to divert individuals from and provide alternatives to the justice-system.

Thanks to the leadership of Cook County Board President Toni Preckwinkle, the daily population at the Cook County Jail has been reduced to historic lows. However, the number of detained individuals with significant behavioral health needs, including but not limited to opioid use disorder (OUD), remains high. While CCH is proud to provide high-quality health care to those at the Jail, including Medication Assisted Treatment (MAT) for those with OUD, we know that this and other health care is best delivered in the community, as arrest and admission to correctional facilities is a destabilizing event correlated with a risk for overdose mortality, and justice-involvement can exacerbate trauma for detained individuals and their families.

As such, we urge the Commission to adopt recommendations that move Illinois further towards an evidence-informed, risk-based approach when it comes to conditions of release for the justice-involved. Thank you for the opportunity to comment.

Sincerely,

John Jay Shannon, MD
Chief Executive Officer

CHICAGO COMMUNITY BOND FUND

June 30, 2019

Judge Robbin J. Stuckert
DeKalb County Courthouse
133 W. State Street
Sycamore, IL 60178

RE: Illinois Supreme Court Commission on Pretrial Practices

Dear Honorable Judge Robbin J. Stuckert,

This is a written submission of my story, which I also shared in testimony at the Commission's public listening session in Chicago on June 17, 2019. My name is Lavette Mayes, and I am an advocate for ending money bond and reducing pretrial incarceration. I've lived in Chicago all of my life. I have two children ages 9 and 18. In 2015, I had an altercation with a family member, and as a result, I was arrested. I was 45 years old at the time and had never been arrested before. I was incarcerated in Cook County Jail for 426 days because I could not afford my $250,000 D-bond. Because of my time in jail, I almost lost custody of my kids. I lost my housing, my savings and my business. After nine months, my bail was reduced to $9,500. Eventually, the Chicago Community Bond Fund and my family paid my bond.

Even though I was released from jail, I was still being punished. I spent another 145 days on electronic monitoring (EM), during which time I missed my kids' first day of school and was not able to play with them in front of our house. I have an autistic son, and if he had run away, I wouldn't have been able to chase after him. The fact that I could only go a very short distance from my house meant my kids were incarcerated in the house with me. Electronic monitoring also kept me from doing simple housekeeping tasks like hanging my clothes in the back yard or even taking out my garbage. While I was in jail, I had surgery and was given stitches. I wasn't able to get the stitches removed when I came home because I couldn't even get permission from Sheriff's Office to go to the hospital.

I wanted to contribute to the household where my children and I were staying, but I was not able to work. The Sheriff's Office claims people are able to work while on EM but if you don't already have a job, it's nearly impossible to get one while on house arrest. My family also had to be exposed to Sheriff's deputies coming into the home to check the monitoring equipment. Ultimately, I decided to sit my family down and let them know I was considering taking a plea because I couldn't stand to stay on house arrest. When you incarcerate a mother,

you incarcerate the entire family. This experience caused my children intense anxiety is still impacting them today.

Had there been a Supreme Court Rule in place that prevented wealth-based incarceration, my family never would have had to experience this. When people are released from jail, they shouldn't be placed on electronic monitoring, which is just another form of incarceration. People should be free while they fight their cases.

I'm asking this Commission to please recommend implementing a Supreme Court Rule to prevent pretrial incarceration due to unaffordable money bail and bring people home to their communities.

Sincerely,

Lavette Mayes
Advocate & Organizer

CHICAGO TEACHERS UNION

Jesse Sharkey
President
Stacy Davis Gates
Vice President
Michael E. Brunson
Recording Secretary
Maria T. Moreno
Financial Secretary

Affiliations
American Federation of Teachers, Illinois Federation of Teachers, American Federation of Labor - Congress of Industrial Organizaions, Illinois Federation of Labor - Congress of Industrial Organizations, and Chicago Federation of Labor, Industrial Union Council

June 27, 2019

Honorable Robbin J. Stuckert
Presiding Judge, 23rd Judicial Circuit
DeKalb County Courthouse
133 West State Street
Sycamore, IL 60178

Re: Supreme Court Commission on Pretrial Practices

Dear Honorable Robbin J. Stuckert:

The Chicago Teachers Union represents more than 25,000 teachers, paraprofessional and school-related personnel, and school clinicians working in the Chicago Public Schools and, by extension, the students and families they serve. Our members are responsible for educating the more than 396,000 students that attend Chicago Public Schools. We greatly appreciate the opportunity to address this commission regarding the impact that money bond and pretrial incarceration have on our students.

Approximately 85% of Chicago Public Schools students are Latinx or Black, and 87% of the student body resides in low-income households. Our students thus mirror those most greatly impacted by pretrial incarceration and money bond. The pretrial incarceration of CPS students and their family members disrupts their education and other positive connections to their communities. A short period of pretrial incarceration can cause students to fall behind in their studies and even force them to drop back an entire grade level. A 2018 study by the Prison Policy Institute found that formerly incarcerated people were eight times less likely to complete college than the general public.[1] That same study found that formerly incarcerated people were twice as likely to have no high school credential at all.

The pretrial incarceration of parents and other family members of CPS students also disrupts the lives of students and is a barrier to their short- and long-term academic success. Numerous studies have shown ties between parental incarceration and lower school performance. Pretrial incarceration can cause job loss, housing instability, increased stress, income loss, disruptions in caregiving and even the loss of parental custody. All of these factors impact a student's ability to perform well. One study found that 49% of children aged 9 to 14 with an incarcerated parent experienced behavioral problems at school which

[1] Lucius Couloute, "Getting Back on Course: Educational exclusion and attainment among formerly incarcerated people," *Prison Policy Institute* (Oct. 2018), available at: https://www.prisonpolicy.org/reports/education.html.

led to their suspension, and 45% expressed little or no interest in school.[2] Another study examined school performance among students aged 13 to 20 years old with currently incarcerated mothers and found that, compared to their best friends, adolescents with an incarcerated mother were more likely to be suspended, fail classes, drop out of school, and/or have extended absences from school.[3] Even a single day in police custody or jail can destabilize families' housing and their ability to meet basic financial needs. Furthermore, pretrial incarceration resulting from unaffordable money bonds immediately harms students and educational communities in a way that does not affect wealthier families who can afford to purchase their freedom.

Other forms of pretrial surveillance and control, such as electronic monitoring, do not provide a more just alternative to current pretrial practices. When a parent or other family member is confined to their home under curfews or house arrest, they are often unable to support students in the most basic and necessary ways, such as taking young people to medical appointments and interacting with educators through parent-teacher conferences. Rather than pretrial punishment, our students and their communities would benefit from increased resources and supportive services in the community. The court could also provide assistance in the form of phone call and text message reminders about court dates, childcare during court, and transportation assistance to get to court. These resources have been shown to be effective at increasing court appearance and also promote strong youth, families, and communities.

We are calling on the Illinois Supreme Court Commission on Pretrial Practices to recommend the implementation of the proposed supreme court rule that would end wealth-based pretrial incarceration and dramatically reduce the number of people jailed in the state of Illinois. No one should be incarcerated pretrial simply because they cannot afford to pay a money bond, and everyone should be granted maximum freedom in the community while awaiting trial. Thank you for the opportunity to submit this comment and for your commitment to increased justice for CPS students and their loved ones.

Sincerely,

Jesse Sharkey
President
Chicago Teachers Union

JS:yv

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[2] Thomas E. Hanlon, Robert J. Blatchley, Terry Bennett-Sears, Kevin O'Grady, Jason M. Callaman, Marc Rose, "Vulnerability of children of incarcerated addict mothers: implications for preventive intervention," *Children and Youth Services Review* (2005) 27:67–84.

[3] Ashton D. Trice and JoAnne Brewster, "The effects of maternal incarceration on adolescent children," *Journal of Police and Criminal Psychology*, 2004;19(1):27–35.

Honorable Robbin J. Stuckert
DeKalb County Courthouse
133 W. State Street
Sycamore, IL 60178

June 30, 2019

RE: Illinois Supreme Court Commission on Pretrial Practices

Dear Hon. Judge Stuckert:

Love & Protect is a Chicago-based community organization that supports women and gender non-conforming persons of color who are criminalized or harmed by state and interpersonal violence. We are pleased to submit a written comment to the Illinois Supreme Court Commission on Pretrial Practices. Due to the criminalization of survivors of domestic and sexual violence, we write in support of pretrial reform and ending the use of money bond.

Criminalization as a response to domestic violence often results in the arrest and prosecution of survivors themselves. A survey of DV survivors reported that 1 in 4 respondents were arrested or threatened with arrest during an incident or when reporting an incident to the police, even when they were injured. Additionally, the ACLU reports that close to 60 percent of people in women's prisons nationwide had a history of physical or sexual abuse prior to their incarceration. The potential for misarrest or dual arrest of both a survivor and their abuser is high, and this only further harms individuals striving for safety and stability in their lives.

In particular, people of color, people who are low-income, and members of the LGBTQ community are disproportionately affected by the criminalization of survivors. A divide runs along the marginalized aspects of one's identity between who is considered an "ideal victim" and who is viewed as a “dangerous criminal” rather than a survivor of violence. Because of stereotypes painting Black women as "aggressive," they are more likely to be seen as perpetrators when defending themselves, for example. A New York City study found that 66 percent of survivors who were arrested alongside or instead of their abusive partner were Black or Latinx, and 43 percent of them were living below the poverty line. Additionally, a national study of DV incidents reported by LGBTQ survivors showed that police misarrested the survivor as the perpetrator of violence 57.9 percent of the time. It is clear that practices leading to the incarceration of survivors have an outsized negative impact on those who are most vulnerable.

Besides disrupting a survivor's own life, pretrial incarceration of survivors does irreparable harm to their families and children. Women disproportionately experience severe intimate partner violence, with one in four women being survivors compared to one in nine men. Incarcerated women are often the primary caregivers for their families, and 80 percent of women in jails are mothers. When they are incarcerated, their children often experience a serious trauma. Some are funneled into the foster care system. Even those who live with another parent, grandparent, or known caregiver experience a severe disruption in their lives that can have lasting effects.

Sixty percent of women in local jails nationwide are being held pretrial. Due in part to the wage gap based on gender and race, exorbitant money bail is even more unaffordable for these women, who are disproportionately Black and Brown. When considering loss of income, loss of housing,

the monetary costs of incarceration (including, for example, expensive phone calls and commissary purchases), and the incalculable emotional and psychological toll it takes, the pretrial incarceration of survivors leads to great hardship for the families and communities who depend on them.

In order to rebuild their lives and move on from abuse and violence, survivors need resources like access to mental and physical health care and affordable long-term housing. Being incarcerated pretrial does not keep survivors safe, nor does it keep the rest of our communities safe. We ask that the Commission deeply consider the harm inflicted on survivors by pretrial incarceration and recommend the end of money bond in Illinois.

Signed,

The Members of Love & Protect

NAMI CHICAGO
Mental health advocacy, education and support.

Honorable Robbin J. Stuckert
Chief Judge
DeKalb County Courthouse
133 W. State Street
Sycamore, IL 60178

06/20/2019

RE: Illinois Supreme Court Commission on Pretrial Practices

Dear Honorable Robbin J. Stuckert:

On behalf of NAMI Chicago, a local affiliate of the National Alliance on Mental Illness (NAMI), I am pleased to submit testimony to the Illinois Supreme Court's Commission on Pretrial Practices. NAMI Chicago is encouraged by the Illinois Supreme Court's commitment to reforming the pretrial practices in the state, which disproportionately impact people living with mental health conditions.

Ensure Mental Health and Substance Use Treatment Will Always Be Voluntary

The Commission should recommend that mental health or substance use treatment always be voluntary when included as a condition of pre-trial release. Requiring compliance to a treatment regimen as a condition of release will lead some individuals with a mental health condition or substance use disorder to be incarcerated simply for failing to comply because as medical conditions, individuals are prone to periods of relapse. The National Institute of Corrections recommends as best practice that mental health and substance use treatment only be voluntarily imposed when recommended as conditions of pre-trial release.[1]

Identify and Support Individuals with Mental Health Conditions through Pretrial Services

The Commission should encourage and support local courts, as they develop pretrial services agencies, to employ and empower trained staff that provide evidence-based universal screenings, referrals, and recommendations to the court. The goal of these services should be to divert individuals with mental health conditions from the criminal court system. Utilizing clinicians to screen individuals for diversion at the earliest possible stage in the pre-trial process is imperative to increase the likelihood of appearance at court dates and long-term stability, as is currently done in Cook County Jail.

In addition to receiving screening, all defendants who need mental health care should receive high quality mental health services in a clinically appropriate setting, whether accessed within the community or in custody pending trial.[2] Pretrial services must provide individualized support with person-centered services. Many individuals, particularly those with serious mental health conditions, can benefit from individualized, clinically informed case management services to ensure appearance at court dates, connect with services, and reduce future criminal court involvement. Judges also need training and guidance from the Illinois Supreme Court to successfully recognize and understand behavioral health needs of individuals who stand before them.

Build Partnerships with Community-Based Providers as Criminal Court Diversion

Roughly seventeen percent of individuals entering jails live with serious mental illness, compared to about five percent of the general population.[3] Individuals living with mental health conditions are less likely to make bail or may take longer to make bail, resulting in even greater disproportionate representation of this population in

[1] Pilnik, L. (2017). *Essential Elements of a High Functioning Pretrial System and Agency*. Washington, DC: National Institute of Corrections.
[2] VanNostrand, M. and Lowenkamp, C. (2013). *Exploring the Impact of Supervision and Pretrial Outcomes*. New York: Laura and John Arnold Foundation.
[3] Fader-Towe, H. (2015). "Improving Responses to People with Mental Illness at the Pretrial Stage," Council of State Governments.

average daily jail populations.[4] To address this stark overrepresentation, the Commission should encourage courts in the state to form strong partnerships with community-based treatment providers to connect individuals with needed mental health services throughout system involvement.

Invest in Court Diversion Programs

The Commission should encourage local law enforcement and municipalities to support diversion models to reduce the criminalization of mental health conditions while maintaining public safety. To achieve this goal, the Commission should advocate for expanded investment in evidence-based criminal court diversion programs in the state, which are central to protecting the civil rights of people living with mental health conditions and connecting individuals to treatment and support services. Mental health courts, for both juveniles and adults, have been proven to reduce recidivism and improve connections to mental health and other support services.[5] Additionally, the Commission should advocate for pre-arrest diversion. For example, community triage centers, of which there are currently two in Chicago, offer law enforcement an alternative to arrest for individuals in need of mental health treatment.

Advocate for Increased State Investment in Mental Health Treatment Services

Discussions about pretrial best practices for individuals living with mental health conditions must acknowledge the shortage of mental health treatment options available in many communities across the state, particularly in communities of color. The Commission should advocate for increased availability of community-based mental health and substance use treatment to reduce reliance on the criminal court system, which currently acts as the largest provider of mental health services in the state.[6] The resources spent providing services to individuals in jails would be better utilized if redirected to providing care in the community.

Reduce All Pretrial Detention to Reduce Community Trauma

Jails are not an appropriate treatment setting for individuals with mental health conditions. The trauma of incarceration can aggravate symptoms of mental health conditions. Incarceration for any period of time disconnects individuals from their community and support systems, and often causes the loss of housing and employment, which continues a cycle of crisis that underlies previous justice involvement. Any amount of pretrial detention increases the likelihood of future criminal activity, both pretrial and years after case disposition.[7]

NAMI Chicago appreciates the Illinois Supreme Court's commitment to improving pretrial practices across the state. We encourage the Court to continue collaboration with a wide range of stakeholders to develop policies that will lead to life-changing outcomes for thousands of individuals living with mental health conditions across the state. Thank you for the opportunity to provide written testimony.

Sincerely,
Rachel Bhagwat
Coordinator of Growth and Engagement
NAMI Chicago

[4] Fader-Towe (2015).
[5] Council of State Governments Justice Center (2008). *Mental Health Courts: A Primer for Policymakers and Practitioners*. New York: Council of State Governments Justice Center.
[6] Ford, M. "America's Largest Mental Hospital is a Jail." *The Atlantic*. June 8, 2015. Accessed June 5, 2019. LINK.
[7] VanNostrand, M. (2013).

I am here today to express my support and gratitude for the improvements in Cook County bond court. Over the past four years, the Cook County Jail daily general population has declined substantially from about 10,000 people to 5, 462 as of last Friday, **without creating a negative impact on public safety.**

I would be remiss if I did not star by thanking those who have helped us achieve those gains. Our efforts have been aided by Justice Ann Burke, retired federal judge Davis Coar, the Civic Consulting Alliance and the Supreme Court of Illinois who worked with us early on to take a critical look at the practices in Bond Court and supported our efforts to work more collaboratively as a system, implement better pre-detention screenings and increase our transparency through the Chief Judge's quarterly report on pretrial outcomes. Chief Judge Evan's Order 18.8A has dramatically impacted pretrial detention in Cook County.

We are also greatly to MacArthur Foundation which has invested in our bail reform efforts including our work under the Safety and Justice Challenge and which previously funded projects in our central bond court that helped improve the quality of information provided to judges and the consistency of judicial decision making.

I want to thank Judge John Kirby and his entire team who have worked hard to fully implement Illinois law that permits cash bail only as a last resort. We have seen how the use of a risk assessment tool has helped us to safely release more defendants to await their trial at home. I have been pleased to help provide the funds for, and collaborate with our partners, to improve the physical space where pre-bond court interviews are held, as well as implement call and text court reminders.

I want to address a disturbing falsehood that is circulating about the changes in bond court and community safety. We are being told that defendants are being released in a manner that imperils public safety. This is not true. 85% of felony defendants appeared for ALL of their scheduled court dates and only one half of one percent of felony defendants acquired a new violent criminal charge. These rates have not increased despite the substantial reductions we have made to the jail population.

The efforts made so far in Cook County are important because they make Cook County safer, are fiscally responsible, and comply with the law. However, our work is not done here. We still have stark racial and ethnic disparities in our jail population and there are still people in the jail who can be safely released. For that

reason, we will continue to work to make the justice system more equitable and truly just.

I urge the Illinois Supreme Court to join with us in this mission by adopting these new rules under discussion, which require that monetary bond, if imposed, be set only in amounts that the accused can afford. Thank you for your time and for considering this important issue across all of Illinois' communities.

MetropolitanPlanningCouncil

Hon. Robbin J. Stuckert
Chief Judge, 23rd Judicial Circuit DeKalb County Courthouse
133 W. State Street
Sycamore, IL 60178

Honorable Robbin Stuckert:

For more than 85 years, the Metropolitan Planning Council has worked to create prosperous, equitable and sustainable communities throughout the Chicago region by implementing solutions that result in vibrant neighborhoods, quality housing, and a strong economy. **Because of our interest in a thriving Chicago region and our deep knowledge of the costs of racial inequity, MPC supports reforms to pretrial detention, including eliminating money bail, waivers for inequitable fines and fees, and implicit bias training for representatives of the criminal justice system**.

Throughout the U.S., hundreds of thousands of people languish in local jails simply because they lack the financial means to pay bail. The results are lost jobs, lost housing, and severed families and community ties.[65] In addition, court fines, fees and costs that people simply cannot afford to pay regularly lead to lost opportunities, whether through jobs, housing, suspension of driver's licenses and even re-incarceration.[66]

As of December 2017, we estimate that 3,300 people are incarcerated in Cook County Jail (CCJ) due to an inability to pay their bail.[77] These 3,300 people represent approximately 57 percent of the current jail population, and a yearly total of $198 million ($60,000 per detainee) in county taxpayer dollars due to unnecessary pretrial detention.[78]

These statistics are grim, but they become even more so in light of their **racially inequitable distribution**. Racial disparities have been documented in nearly every aspect of the criminal justice system, from traffic and street stops to arrests to sentencing. As we documented in our report *The Cost of Segregation*, racial inequity, perpetuated in part by the criminal justice system, **costs Chicago alone approximately 4.4 billion dollars and 229 lives per year**. These are unacceptable costs for all Chicagoans, and demonstrate the need for decisive policy action.

Thankfully, momentum is growing to address these racially and economically inequitable outcomes. The State should act swiftly to ensure that the criminal justice system does its part to rectify the problem. As we argued in *Our Equitable Future*, the State should take the following actions to address racial inequity in pretrial penalties:

- Eliminate wealth-based pretrial detention by prohibiting the use of secured money bail;

140 South Dearborn
Suite 1400
Chicago, Illinois 60603

312 922 5616
metroplanning.org
@metroplanners

- Create a statutory waiver for the imposition of criminal court fees and costs on the poor;
- Require implicit bias training for judges, prosecutors, public defenders, pretrial services officers and all criminal court system staff.

These changes are in line with Illinois State law, which already requires judges to consider the ability of accused people to pay a monetary bond.[74] In 2017, Cook County Chief Judge Timothy Evans created a process for judges to follow this law with the goal of eliminating pretrial detention based only on poverty.[75]

In taking these actions, the State can strive toward racial and economic equity while ensuring the safety of Illinois' residents and saving money. We know this because of the experience of other governments. For example, in Washington D.C., 85 percent of defendants are released without bail, yet 90 percent of them show up for their court dates and 91 percent of them stay out of trouble while free. The district also saves at least $398 million a year—more than $1 million a day—by releasing defendants into supervision programs that are far less expensive than keeping the defendants behind bars.[76]

We are heartened to see that the State takes the issue of pretrial detention seriously enough to solicit input from stakeholders and community groups. We thank you for the opportunity to speak on this matter, and we welcome the opportunity for further discussion.

Sincerely,

MarySue Barrett
President
Metropolitan Planning Council

DISTRICT OFFICE:
1234 W. 95TH STREET
CHICAGO, ILLINOIS 60620
PHONE: 773-445-9700

SPRINGFIELD OFFICE:
266-S STRATTON BUILDING
SPRINGFIELD, ILLINOIS 62706
PHONE: 217-782-0010

June 30, 2019

JUSTIN SLAUGHTER
State Representative • 27th District

VICE CHAIRPERSON
- Economic Justice & Equity
- Health & Healthcare Disparities

COMMITTEES
- Judiciary - Criminal
- Appropriations Elementary & Secondary Education
- Restorative Justice
- Police & First Responders
- Business Incentives For Local Communities

Honorable Robbin J. Stuckert
Presiding Judge, 23rd Judicial Circuit
DeKalb County Courthouse
133 W. State Street
Sycamore, IL 60178

RE: Illinois Supreme Court Commission on Pretrial Practices

Dear Hon. Judge Stuckert:

As the Chair of the Illinois House of Representatives Judiciary-Criminal Committee and sponsor of HB3347, the Equal Justice for All Act, I am pleased to submit testimony to the Illinois Supreme Court Commission on Pretrial Practices. I strongly oppose the continued use of secured money bond in Illinois and recently convened a subject matter hearing on bond reform in Springfield. I urge the Commission to recommend the adoption of the proposed Supreme Court Rule that would prohibit pretrial incarceration based on the inability to pay a money bond.

As you know, more than 90% of people in Illinois jails are incarcerated pretrial—a considerably higher rate than the national rate of 67%. Every year, more than 267,000 people are admitted to 92 county jails in Illinois even though they have not been convicted of a crime and are presumed innocent. The majority are jailed only because they cannot afford to pay a money bond. It is time for Illinois to end this unjust practice of money bond.

HB3347 will make the system fairer and safer for all Illinois residents. This bill will ensure that access to money will not determine whether or not an accused person is detained in jail or subject to other conditions before their trial. By replacing a wealth-based system with a common-sense approach to justice for those presumed innocent, HB3347 will provide that all Illinoisans, regardless of their income, are treated fairly by the courts. I am proud to sponsor this important legislation and to work together with the Coalition to End Money Bond.

I commend the Commission and your steadfast work to improving pretrial practices across Illinois. I urge you to recommend the adoption of the proposed Supreme Court Rule that would prohibit pretrial incarceration based on the inability to pay a money bond. Because ending money bond and reducing pretrial incarceration in Illinois is of the utmost importance, I am ready to advance HB3347 with my colleagues in the Illinois General Assembly if the Commission does not recommend the adoption of the proposed rule. Thank you for the opportunity to submit written testimony.

Sincerely,

Justin Slaughter
Illinois State Representative, 27th District
Chair of the Illinois House Judiciary-Criminal Committee

ILLINOIS HOUSE OF REPRESENTATIVES

District Office:
3458 N. Cicero
Avenue Chicago, IL
60641

Springfield Office:
282-S Stratton
Springfield, IL
62706

June 25, 2019

Honorable Robbin J. Stuckert
Presiding Judge, 23rd Judicial Circuit
DeKalb County Courthouse 133 W.
State Street Sycamore, IL 60178

RE: Illinois Supreme Court Commission on Pretrial Practices

Dear Hon. Judge Stuckert:

On behalf of myself and the Progressive Caucus of the Illinois House of Representatives , I am pleased to submit testimony to the Illinois Supreme Court Commission on Pretrial Practices. Our caucus strongly opposes the continued use of secured money bond in Illinois and is working with our colleagues in Springfield to put an end to the practice. I urge the Commission to recommend the adoption of the proposed Supreme Court Rule that would prohibit pretrial incarceration based on the inability to pay a money bond.

A common argument in opposition of ending money bond is that funds collected from bonds posted currently provide necessary funds for the operation of important programs such as public defenders and victims' services programs. We also believe these services are vital—so vital, in fact, that they should be funded reliably and fairly through Illinois' state budget process. There are ample alternative sources of funding for these services, such as increasing taxes on corporations and closing current tax loopholes. The Progressive Caucus is committed to finding money to pay for these services without threatening legally innocent people with incarceration.

The presumption of innocence is a cornerstone of our criminal justice system. The practice of locking up individuals who are presumed innocent for weeks or even months unless someone who cares about them pays a sum of money is exploitative and unjust. Using bond money to fund vital government services is immoral and creates a perverse incentive for its ongoing use by the courts. Nevertheless, we continue to hear that funding these services is an excuse to continue the extortion of family members of people in jail. In fact, at a legislative subject matter hearing in April of this year, guaranteeing income to both fund services and collect on other court fines, fees, and costs was the primary objection raised to abolishing secured money bond. This is a shameful motivation for bad policy, and we are looking forward to changing it.

The Progressive Caucus of the Illinois House of Representatives appreciates your commitment to improving pretrial practices across Illinois. We urge you to consider alternative ways to raise revenue to pay for the vital programs that revenue from money bonds is currently funding, and we urge you to completely abolish secured money bond. Thank you for the opportunity to provide this written testimony.

Sincerely,
Will Guzzardi Illinois State
Representative, 39th District
Co-Chair of the Illinois House
Progressive Caucus

Law Office of the
COOK COUNTY PUBLIC DEFENDER

69 W WASHINGTON • 16TH FLOOR • CHICAGO, IL 60602 • (312) 603-0600

Amy P. Campanelli • Public Defender

June 28, 2019

Sent via email to: Pretrialhearings@illinoiscourts.gov

Illinois Supreme Court Commission on Pretrial Practices
Pretrial Comments
AOIC Probation Division
3101 Old Jacksonville Road
Springfield, IL 62704

Re: **Recommendations re: Pretrial Reform in Illinois**

Dear Commission Members,

I am writing to urge you to recommend that the Illinois Supreme Court implement the proposed rule entitled *Hearings on Pretrial Release* that I submitted to the Administrative Office of the Illinois Courts on October 13, 2017, on behalf of the Cook County Criminal Justice stakeholders and numerous local and national community organizations.

The proposed rule seeks to eliminate wealth-based pretrial detention and ensure that judicial decisions about pretrial detention and release of presumptively innocent individuals are based on legitimate considerations rooted in evidence, providing in essence that:

1) In any case in which a court imposes a financial condition of pretrial release, the court shall conduct an inquiry into the accused person's financial resources and ability to pay.

2) The court shall not impose a financial condition of release unless the court finds, in writing on the record, that the accused has the present ability to pay the financial condition.

The proposed rule is very similar to General Order 18.8a, which was issued in Cook County by the Honorable Chief Judge Timothy C. Evans in September 2017. Since that order was implemented, Cook County has seen a drastic reduction in the number of defendants who are incarcerated pretrial. According to a recent report issued by the Office of the Chief Judge, bond court reform has helped to close the racial gaps in pre-trial decisions. Specifically, there was a 117% increase in the number of black defendants receiving I-Bonds and an 80% increase in the number of Hispanic defendants receiving them. Additionally, the report reflects that 83% of released defendants appear for court appearances, and a very small fraction -- 0.6% -- were charged with a new violent offense while released pre-trial. This data shows that bond court reform can be done in a safe and effective manner.

Thankfully, my clients in Cook County have benefitted from bond court reform. However, this benefit should not be limited to cases pending in Cook County; defendants throughout Illinois should also benefit. It is imperative that the Illinois Supreme Court act to ensure uniformity in practice throughout the state. Time is of the essence. If a new Chief Judge is elected in Cook County, we run the risk that General Order 18.8a may be not exist beyond Chief Judge Evans' tenure, potentially undoing the

progress that has been made thus far in Cook County.

The proposed Supreme Court rule would ensure that the success of bond court reform we have experienced in Cook County would be implemented for the benefit of defendants throughout the state, and without jeopardizing public safety.

Therefore, I hope you will consider recommending that the Illinois Supreme Court implement the proposed rule as a part of its overall pretrial reform strategy. If you have any questions or require any additional information, please do not hesitate to contact my Deputy of Policy & Strategic Planning, Era Laudermilk at Era.Laudermilk@cookcountyil.gov or (312) 603-8389.

Sincerely,

Amy P. Campanelli
Public Defender of Cook County

TASC | Administrative Offices • 700 S. Clinton St. • Chicago, IL 60607
312.787.0208 • 312.787.9663 fax • www.tasc.org

June 26, 2019

Illinois Supreme Court Commission on Pretrial Practices
AOIC Probation Division
3101 Old Jacksonville Road
Springfield, IL 62704
Via email: pretrialhearings@illinoiscourts.gov

RE: Pretrial Reform Comments

TASC appreciates the opportunity to provide comments on pretrial reform to the Commission. Our comments are informed by extensive experience working with **people involved in the justice system who have substance use conditions,** often co-occurring with other behavioral and medical conditions and social service needs.

For over 40 years, TASC has connected people involved in the justice system to substance use treatment and other services in the community. Through our statewide alternative-to-prison program, collaborations with problem-solving courts, and community reentry services for people leaving state prisons who have received facility-based treatment, we provide substance use assessments, planning, linkage to treatment, and ongoing case management**.** We also partner with the Cook Co. Sheriff's office and other provider organizations on the Supportive Release Center Program (SRC), which offers an overnight stay and linkage to care for men leaving the jail who are struggling with substance use disorders, mental illness, and/or homelessness and need a safe place to go. Program partners are currently working to open the program and distribute naloxone (opioid overdose reversal medication) to people who bond out of jail.

As the Commission considers issues related to pretrial reform, **we strongly recommend meaningful consideration and incorporation of current scientific knowledge related to substance use and mental health conditions, symptomology, access to care, and appropriate delineation of roles and responsibilities related to such care.**

Across the country, nearly two-thirds of individuals sentenced to jail meet diagnostic criteria for a substance use disorder, compared to 5 percent in the general population.[1] A survey of substance use among people who were arrested found that over 80 percent in Chicago tested positive for at least one illicit substance.[2] These statistics reflect the results of decades of the stigmatizing of addiction, exemplified in punitive laws, funding decisions, and sparse availability of and access to community-based treatment and care. In other words, substance use disorders and their symptoms have long been criminalized rather than medicalized,[3] with people who have substance use disorders concentrated and managed in criminal justice rather than healthcare systems.

In recent years, recognition of the elevated prevalence of substance use disorders among justice-involved populations—and of their associated costs to governments and taxpayers—has grown, along with leaps in scientific understanding of addiction as a treatable biopsychosocial condition. This recognition has coalesced with widespread acknowledgement of iatrogenic effects of incarceration on the health and well-being of individuals and families[4,5] and correlation with recidivism, even short jail stays,[6] as well as with coordinated campaigns to reduce the overuse of pretrial detention. Some jurisdictions have engaged in efforts to better identify treatment needs among justice-involved populations, and to provide or facilitate connections to appropriate care, often in community settings rather than jail.

As these efforts continue and expand, policymakers, judges, and jail administrators are called upon to broaden and deepen their collective understanding of substance use conditions, their symptoms, and evidence-based treatment, and their roles and responsibilities in addressing addiction.

For example, stigma and misunderstandings about addiction remain persistent[7] and pernicious problems, influencing public policy and impeding treatment access[8] (i.e., criminalization of drug use and possession, drug treatment and diversion programs that discharge individuals for even briefly returning to use as they navigate early recovery). Stigma and misunderstandings contribute to over-imposition of pretrial and sentence-based jail time when criminal behaviors are divorced from an understanding of the symptomology underlying them, as well as to misguided efforts to fund criminal justice system operations through fines and fees imposed upon those whose offenses are related to undertreated substance use disorders.

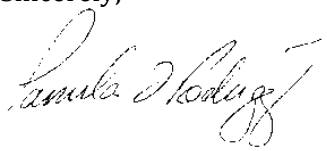
Further, while jails are required to provide necessary healthcare,[9] and should be lauded for increased efforts to do so and to improve the quality and scope of care, **it is a misuse of incarceration when individuals are sent to or kept in jail longer than legally required *as a means of* connecting them with care.** While perhaps well-intended, this function falls well outside of the fundamental purpose of jail, and may well do more harm than good. Facility-based treatment remains sparse—only 14 percent of sentenced people in jail and 15 percent of people in prison who needed treatment get it. Outside of treatment, what is available is often self-help group or peer counseling, and even that is very limited (accessed by only 17 percent of sentenced people in jail and 25 percent of people in prison meeting criteria for a substance use disorder).[10] Since even short stays in jail can have harmful, long-lasting effects on individuals, families, and communities, any among us who might be inclined to hold people in jail so they can get treatment should ask ourselves whether we would make the same choice in order to help someone get treatment for diabetes or hypertension.

Incarceration is not the advised setting for medical care.

Instead, challenges related to addressing substance use disorder among justice populations should be addressed through a systems-based, collaborative approach, with efforts to grow community capacity for a full range of evidence-based substance use treatment and services, including withdrawal management, FDA-approved medications, counseling, distribution of overdose reversal medication to individuals (and their family and friends), recovery/peer support, cross-discipline referral networks, and robust diversion options that redirect individuals early and throughout criminal justice involvement to community-based treatment. **People in jails in prisons who need substance use treatment should certainly have access to it, but should not be held there as a way to facilitate it.**

Thank you for your consideration, and please feel free to contact me at (312) 573-8372 or prodriguez@tasc.org for any reason.

Sincerely,



Pamela F. Rodriguez
President & CEO

[1] Bronson, J. and Stroop, J. (2017). *Drug Use, Dependence, and Abuse Among State Prisoners and Jail Inmates, 2007-2009.* Bureau of Justice Statistics, Office of Justice Programs, Publication No. NCJ 250546. Washington, DC: U.S. Department of Justice.

[2] Office of National Drug Control Policy (2014). *2013 Annual Report, Arrestee Drug Abuse Monitoring Program II.* Washington, DC: Executive Office of the President.

[3] National Research Council. (2014). *The Growth of Incarceration in the United States: Exploring Causes and Consequences. Committee on Causes and Consequences of High Rates of Incarceration,* J. Travis, B. Western, and S. Redburn, Editors. Committee on Law and Justice, Division of Behavioral and Social Sciences and Education. Washington, DC: The National Academies Press.

[4] National Research Council. (2014). *NOTE: See chapter 7 for a discussion of the consequences of incarceration on health and mental health, chapter 8 for a discussion of the consequences related to future employment and earning potential, and chapter 9 for a discussion of consequences for families and children.*

[5] Martin, E. (2017). Hidden Consequences: The Impact of Incarceration on Dependent Children. *NIJ Journal,* No. 278.

[6] Lowenkamp, C. T., VanNostrand, M., and Holsinger, A. (2013). *The Hidden Costs of Pretrial Detention.* Houston: Laura and John Arnold Foundation.

[7] Perrone, M. (5 April 2018). *AP-NORC Poll: Most Americans See Drug Addiction as a Disease. U.S. News and World Report.* Retrieved from https://www.usnews.com/news/news/articles/2018-04-05/ap-norc-poll-most-americans-see-drug-addiction-as-a-disease.

[8] Yang, L., Wong, L. Y., Grivel, M. M., and Hasin, D. S. (2017). Stigma and Substance Use Disorders: An International Phenomenon. *Current Opinion in Psychiatry, 30*(5):378–388.

[9] National Research Council. (2014).

[10] Bronson, J. and Stroop, J. (2017).

To,
Honorable Robbin J. Stuckert,
Chair, Illinois Supreme Court Commission on Pretrial Practices,
AOIC Probation Division,
3101 Old Jacksonville Road,
Springfield, IL 62704, United States of America.
Submitted via e-mail to pretrialhearings@illinoiscourts.gov

June 30, 2019

Sub: Illinois Supreme Court Commission on Pretrial Practices Public Comments

Dear Honorable Judge Robbin Stuckert and members of the Commission:,

We write this letter in our personal capacities as researchers in the fields of statistics,machine learning and artificial intelligence, law, sociology, and anthropology. In recent years, an increasing number of court systems have adopted actuarial pretrial risk assessments.Recognizing the importance of a defendants constitutional presumption of innocence, as well as the practical impact of pretrial detention, the Illinois Supreme Court Commission on Pretrial Practices is evaluating current pretrial decision-making practices in Illinois in order to provide recommendations for reform.

Pretrial risk assessment tools are often promoted as an essential part of bail reform that can help judges make more informed, objective pretrial decisions, thereby mitigating racial bias and reducing pretrial incarceration rates without increasing rates of pretrial crime or missed court appearances. We have closely watched the development and deployment of these tools,conducted independent research, and carefully studied other research in this field.

We include with this letter a statement of grave concerns with the technical flaws of pretrial risk assessments. These tools suffer from serious methodological flaws that undermine their accuracy, validity, and effectiveness. As academic researchers in relevant fields, we feel obligated to communicate these concerns to assist the Illinois Supreme Court Commission on Pretrial Practices as it continues to consider pretrial reforms.

Thank you for your consideration.

Enclosure:
Statement re: ***Technical Flaws of Pretrial Risk Assessments Raise Grave Concerns***.

TECHNICAL FLAWS OF PRETRIAL RISK ASSESSMENTS RAISE GRAVE CONCERNS

SUMMARY

Actuarial pretrial risk assessments suffer from serious technical flaws that undermine their accuracy, validity, and effectiveness. They do not accurately measure the risks that judges are required by law to consider. When predicting flight and danger, many tools use inexact and overly broad definitions of those risks. When predicting violence, no tool available today can adequately distinguish one person's risk of violence from another. Misleading risk labels hide the uncertainty of these high-stakes predictions and can lead judges to overestimate the risk and prevalence of pretrial violence. To generate predictions, risk assessments rely on deeply flawed data, such as historical records of arrests, charges, convictions, and sentences. This data is neither a reliable nor a neutral measure of underlying criminal activity. Decades of research have shown that, for the same conduct, African-American and Latinx people are more likely to be arrested, prosecuted, convicted and sentenced to harsher punishments than their white counterparts. Risk assessments that incorporate this distorted data will produce distorted results. These problems cannot be resolved with technical fixes. We thus strongly recommend turning to other reforms.

ACTUARIAL RISK ASSESSMENTS DO NOT ACCURATELY MEASURE PRETRIAL RISKS

When making pretrial release decisions, judges must impose the least restrictive conditions of release necessary to secure the presence of a person at trial and protect the safety of the community. To accomplish this task, judges must identify and mitigate specific pretrial risks, specifically of a person causing serious harm to the community or fleeing the jurisdiction prior to their trial. Today's pretrial risk assessments are ill-equipped to support judges in evaluating and effectively intervening on these specific risks, because the outcomes that these tools measure do not match the risks that judges are required by law to consider. For example, many risk assessments only provide a pretrial failure risk score, which is a combined outcome of missing a court appearance or being rearrested. Many scholars have warned that such a composite score could lead to an overestimation of both flight and danger, and can make it more, not less, difficult to identify effective interventions.[1]

Even when pretrial risk assessments break out risk scores into distinct categories, the data used to define and measure flight and danger are inexact and overly broad. For example, risk assessments frequently define public safety risk as the probability of arrest.[2] When tools conflate the likelihood of arrest for any reason with risk of violence, a large number of people will be labeled a threat to public

[1] E.g., Lauryn P. Gouldin, *Disentangling Flight Risk from Dangerousness*, 2016 **BYU L. Rev.** 837, 88788 (2018). The interventions which improve an individuals likelihood of appearing in court (text reminders, transportation services, flexible scheduling) are often quite different from interventions designed to ensure community safety (stay-away orders, curfews, drug testing).

[2] For example, the Colorado Pretrial Assessment Tool (CPAT) defines a risk to "public safety" as any new criminal filing, including for traffic stops and municipal offenses. **The Colorado Pretrial Risk Assessment Tool Revised Report** 18 (2012).

safety without sufficient justification. Risk assessments that include minor offenses, such as driving on a suspended license, in their definition of danger, run the risk of increasing pretrial incarceration rates and further exacerbating racial inequalities in pretrial outcomes.[3]

Some risk assessments define public safety risk more narrowly as the risk that a person will be arrested for a violent crime while on pretrial release. But because pretrial violence is exceedingly rare, it is challenging to statistically predict. Risk assessments cannot identify people who are more likely than not to commit a violent crime. The fact is, the vast majority of even the highest risk individuals will not go on to be arrested for a violent crime while awaiting trial. Consider the dataset used to build the Public Safety Assessment (PSA): 92% of the people who were flagged for pretrial violence did not get arrested for a violent crime and 98% of the people who were not flagged did not get arrested for a violent crime.[4] If these tools were calibrated to be as accurate as possible, then they would predict that every person was unlikely to commit a violent crime while on pretrial release. Instead, risk assessments sacrifice accuracy and generate substantially more false positives (people who are flagged for violence but do not go on to commit a violent crime) than true positives (people who are flagged for violence and do go on to be arrested for a violent crime).[5] Consequently, violence risk assessments could easily lead judges to overestimate the risk of pretrial violence and detain more people than is justified.[6]

Finally, current risk assessment instruments are unable to distinguish one person's risk of violence from another's. In statistics, predictions are made within a range of likelihood, rather than as a single point estimate. For example, a predictive algorithm might confidently estimate a person's risk of arrest as somewhere between a range of five and fifteen percent. Studies have demonstrated that predictive models can only make reliable predictions about a person's risk of violence within very large ranges of likelihood, such as twenty to sixty percent.[7] As a result, virtually everyone's range of likelihood overlaps. When everyone is similar, it becomes impossible to differentiate people with low and high risks of violence. At present, there is no statistical remedy to this challenge.

DATA USED TO BUILD PRETRIAL RISK ASSESSMENTS ARE DISTORTED

Risk assessments are frequently posited as a solution to judges' implicit biases. Yet the data used to build pretrial risk assessments are deeply flawed and racially biased. Pretrial risk assessments rely on historical records of arrests, charges, convictions, and sentences to generate predictions about an individuals propensity for pretrial failure. These tools assume that criminal history data are a reliable and neutral measure of underlying criminal activity, but such records cannot be relied upon for this purpose. Arrest records are both under- and over-inclusive of the true crime rate. Arrest records are

[3] For decades, communities of color have been arrested at higher rates than their white counterparts, even for crimes that these racial groups engage in at comparable rates. As a result, people of color are more likely to be labeled as dangerous than their white counterparts when arrest data is used to measure public safety risk. Thus, they will bear a disproportionate amount of the burdens that stems from these harmful conflations between arrest and danger.

[4] **Public Safety Assessment, PSA Results** (2019).

[5] Julia Angwin et al., *Machine Bias*, **Propublica** (May 23, 2016), https://www.propublica.org/article/machinebias-risk-assessments-in-criminal-sentencing. These inaccuracies are very much mediated by race African Americans were twice as likely to be mislabeled as high risk than their white counterparts.

[6] For example, a recent study found that people significantly overestimate the recidivism rate for individuals who are labeled as moderate-high or "high" risk on a risk assessment. Daniel A., Krauss, Gabriel I. Cook & Lukas Klapatch, *Risk Assessment Communication Difficulties: An Empirical Examination of the Effects of Categorical Versus Probabilistic Risk Communication in Sexually Violent Predator Decisions*, **Behav. Sci. & L**. (2018). (Participants greatly overestimated the true recidivism rate for those assessed as moderate-high risk category – the true rate was less than fifty percent of what participants predicted.)

[7] Stephen D. Hart & David J. Cooke, *Another Look at the (Im–)Precision of Individual Risk Estimates Made Using Actuarial Risk Assessment Instruments*, 31 **Behav. Sci. Law** 81, (2013).

under-inclusive because they only chart law enforcement activity, and many crimes do not result in arrest.[8] Less than half of all reported violent crimes result in an arrest, and less than a quarter of reported property crimes result in an arrest. Arrest records are also over-inclusive because people are wrongly arrested and arrested for minor violations, including those that cannot result in jail time. Moreover, decades of research have shown that, for the same conduct, African-American and Latinx people are more likely to be arrested, prosecuted, convicted and sentenced to harsher punishments than their white counterparts. [9] People of color are treated more harshly than similarly situated white people at each stage of the legal system, which results in serious distortions in the data used to develop risk assessment tools:

- **Arrests**: For decades, communities of color have been arrested at higher rates than their white counterparts, even for crimes that these racial groups engage in at comparable rates.[10] For example, African-Americans are 83% more likely to be arrested for marijuana compared to whites at age 22 and 235% more likely to be arrested at age 27, in spite of similar marijuana usage rates across racial groups.[11] Similarly, African-American drivers are three times as likely as whites to be searched during routine traffic stops, even though police officers generally have a lower "hit rate" for contraband when they search drivers of color.[12] This leads to an overrepresentation of people of color in arrest data. Predictive algorithms that rely on this data overestimate pretrial risk for people of color.

- **Charges**: Empirical research has found that African-American defendants face significantly more severe charges than white defendants, even after controlling for a multitude of factors.[13] Persistent patterns of differential charging make prior charges an unreliable variable for building risk assessments.

- **Convictions & Sentences**: Compared to similarly situated white people, African-Americans are more likely to be convicted[14]and more likely to be sentenced to incarceration.[15]

[8] **FBI, 2017 Crime in the United States: Clearances**, https://ucr.fbi.gov/crime-in-the-u.s/2017/crime-in-the-u.s.-2017/topic-pages/clearances (last visited June 28, 2019).

[9] See generally **The Sentencing Project, Report of the Sentencing Project to the United Nations Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia, and Related Intolerance Regarding Racial Disparities in the United States Criminal Justice System** (2018); **Lynn Langton & Matthew Durose, U.S. Dep't of Justice, Police Behavior During Traffic and Street Stops**, 2011 (2013); Stephen Demuth & Darrell Steffensmeier, *The Impact of Gender and Race-Ethnicity in the Pretrial Release Process*, 51 **Soc. Probs.** 222 (2004); **Jessica Eaglin & Danyelle Solomon, Brennan Center for Justice, Reducing Racial and Ethnic Disparities in Jails: Recommendations for Local Practice** (2015); Sonja B. Starr & M. Marit Rehavi, *Racial Disparity in Federal Criminal Sentences*, **J. Pol. Econ**. 1320 (2014); **Marc Mauer, Justice for All? Challenging Racial Disparities in the Criminal Justice System** (2010).

[10] Megan Stevenson & Sandra G. Mayson, *The Scale of Misdemeanor Justice*, 98 **B.U. L. Rev.** 731, 769-770 (2018). This comprehensive national review of misdemeanor arrest data has shown systemic and persistent racial disparities for most misdemeanor offences. The study shows that "black arrest rate is at least twice as high as the white arrest rate for disorderly conduct, drug possession, simple assault, theft, vagrancy, and vandalism." Id. at 759. This study shows that "many misdemeanor offenses criminalize activities that are not universally considered wrongful, and are often symptoms of poverty, mental illness, or addiction." Id. at 766.

[11] "[R]acial disparity in drug arrests between black and whites cannot be explained by race differences in the extent of drug offending, nor the nature of drug offending." Ojmarrh Mitchell & Michael S. Caudy, *Examining Racial Disparities in Drug Arrests*, **Just. Q.**, Jan. 2013, at 22.

[12] Ending Racial Profiling in America: Hearing Before the Subcomm. on the Constitution, Civil Rights and Human Rights of the Comm. on the Judiciary, 112th Cong. 8 (2012) (statement of David A. Harris).

[13] Sonja B. Starr M. Marit Rehavi, *Racial Disparity in Federal Criminal Charging and its Sentencing Consequences*, U. (Mich. L. Econ. Working Paper Series, Working Paper No. 12-002, 2012).

[14] Shamena Anwar, Patrick Bayer & Randi Hjalmarsson, *The Impact of Jury Race in Criminal Trials*, 127 **Q. J. Econ**. 1017, 1019 (2012).

[15] David S. Abrams, Marianne Bertrand & Sendhil Mullainathan, *Do Judges Vary in Their Treatment of Race*, 41 **J. L. Stud**. 347, 350 (2012)

Risk assessments that incorporate this distorted data will produce distorted results.[16] There are no technical fixes for these distortions.

CONCLUSION

Pretrial risk assessments do not guarantee or even increase the likelihood of better pretrial outcomes. Risk assessment tools can simply shift or obscure problems with current pretrial practices. Some jurisdictions that have adopted risk assessment tools have seen positive trends in pretrial outcomes, but other jurisdictions have experienced the opposite. Within jurisdictions that have achieved positive outcomes, it is uncertain whether the risk assessment tools were responsible for that success or whether that success is due to other reforms or changes that happened at the same time. Given these mixed outcomes, it is impossible to predict the impact of pretrial risk assessments in any jurisdiction.

Beyond the technical flaws outlined in this statement, a broader and growing body of research questions the validity, ethics, and efficacy of actuarial pretrial risk assessments. For example, most risk assessments are proprietary technology, and defendants assessed by these tools are not allowed the opportunity to inspect and critique the algorithms or their underlying data. Poor implementation and lack of judicial training and buy-in can undermine reforms. Validity and fairness questions arise when tools are trained on data from one jurisdiction but deployed in a jurisdiction with different demographics, judicial culture, and policing practices.

This letter specifically addresses fundamental, technical problems with actuarial risk assessment instruments. These technical problems cannot be resolved. We strongly recommend turning to other reforms.

Chelsea Barabas
Research Scientist
MIT Media Lab

Ruha Benjamin, PhD
Associate Professor
Princeton University

John Bowers
Research Associate
Harvard Law School

Meredith Broussard, PhD
Associate Professor
New York University

Joy Buolamwini
Founder
Algorithmic Justice League

Karthik Dinakar, PhD
Research Scientist
MIT Media Lab

[16] There have been attempts to solve this problem on the back end by mitigating outcome disparities in risk assessment predictions, but they overlook and do not address the fundamental distortions outlined above.

Colin Doyle
Staff Attorney, CJPP
Harvard Law School

Timnit Gebru, PhD
Co-founder
Black in AI

Stefan Helmrich, PhD
Professor & Elting E. Morison Chair
Anthropology, MIT

Joichi Ito, PhD
Director, MIT Media Lab
Visiting Professor, Harvard Law School

Rodrigo Ochigame
Doctoral Candidate, HASTS
MIT

Cathy O'Neil, PhD
Author
Weapons of Math Destruction

Heather Paxson, PhD
Professor of Anthropology
MIT

Venerable Tenzin Priyadarshi
Director, Ethics Initiative
MIT Media Lab

Vincent M. Southerland, Executive Director
Center on Race, Inequality, & the Law
NYU Law

Jordi Weinstock
Lecturer on Law
Harvard Law School

Ethan Zuckerman
Director, Center for Civic Media
MIT Media Lab

Jonathan Zittrain
George Bemis Professor of International Law
Harvard Law School

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Illinois Supreme Court Commission on Pretrial Practices
Pretrial Comments
AOIC Probation Division
3101 Old Jacksonville Road
Springfield, IL 62704
Submitted via email to: Pretrialhearings@illinoiscourts.gov

Re: Chicago Jobs Council Comment on Pretrial Reform in Illinois

Esteemed members of the Illinois Supreme Court Commission on Pretrial Practices,

For the past four decades, the Chicago Jobs Council has focused on connecting people who face barriers and labor market marginalization with high-quality, accessible skill-building and employment opportunities. Our approximately 70 member organizations are community-based providers of workforce development services. Many of them work with job seekers who have interacted in various ways with the criminal legal system.

Based on the on-the-ground expertise of low-income job seekers and the frontline workforce professionals who work alongside them, we know that excellent job training and skill-building programs may not be sufficient to move people out of poverty and into high-quality employment. Many job seekers face barriers to employment and discrimination because of structural barriers. Specifically, a felony conviction or a prison or jail term can have a substantial negative impact on future job prospects. We submit this comment because we believe the structure our current pretrial system leads to unfair outcomes that harm the employment prospects and economic opportunities of people accused of crimes and results in disparities that exacerbate racialized economic inequality in our state. We recommend reforming Illinois' pretrial system to eliminate secured money bond and drastically reduce the use of pretrial detention. Finally, we request that your commission use its platform to advocate for increased state investments in workforce development and other important supportive services that strengthen communities.

Eliminate Money Bond and Reduce Pretrial Detention

First, the use of money bond as a condition of pretrial release leads many people to be incarcerated solely because they cannot afford to pay for their release. This can result in lengthy periods of pretrial incarceration that can lead to rapid economic destabilization of an accused person and their families. One quasi-experimental study which compared the outcomes of people who were released versus detained pretrial found significant economic benefits to pretrial release. Two years out from their respective bail hearings, people who were initially

released experienced higher rates of employment (50.9% compared to 37.8%) and greater reported annual earnings than those who were detained.[1] Furthermore, we know that many of the people who find themselves unable to pay money bond come from economically vulnerable communities who face persistent marginalization from the labor market. Pretrial incarceration would only exacerbate those challenges.

Second, pretrial detention increases the likelihood of conviction based solely on an increased likelihood of pleading guilty.[2] A criminal conviction is one of the most notorious barriers to employment. Past incarceration reduces annual income by as much as 40%.[3] Furthermore, according to a literature review conducted by John Schmitt and Kris Warner:

> *"Researchers have identified several distinct channels for this effect. Time behind bars can lead to deterioration in a worker's "human capital," including formal education, on-the-job experience, and even "soft skills" such as punctuality or customer relations. Incarceration can also lead to the loss of social networks that can help workers find jobs; and, worse, provide former inmates with new social networks that make criminal activity more likely. Incarceration or a felony conviction can also impart a stigma that makes employers less likely to hire ex-offenders. In many states, a felony conviction also carries significant legal restrictions on subsequent employment, including limitations on government employment and professional licensing."*[4]

Illinois law creates significant barriers to economic advancement based on a criminal conviction. The National Inventory of Collateral Consequences of Convictions maintained by the Council of State Governments lists 941 limits on employment and volunteering, business and professional licensure, and occupational certification in Illinois based on criminal convictions.[5] For these reasons, the Commission's recommended reforms to Illinois' pretrial system must focus on reducing levels of pretrial incarceration overall.

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[1] Will Dobbie, Jacob Goldin, and Crystal S. Yan, "The Effects of Pretrial Detention on Conviction, Future Crime, and Employment: Evidence from Randomly Assigned Judges." American Economic Review 2018, 108(2): 201–240. https://www.aeaweb.org/articles?id=10.1257/aer.20161503

[2] Ibid.

[3] The Pew Charitable Trusts, "Collateral Costs: Incarceration's Effect on Economic Mobility."Washington, DC: The Pew Charitable Trusts, 2010. https://www.pewtrusts.org/~/media/legacy/uploadedfiles/pcs_assets/2010/collateralcosts1pdf.pdf

[4] John Schmitt and Kris Warner, "Ex-offenders and the labor market." Center for Economic and Policy Research, 2010. http://cepr.net/documents/publications/ex-offenders-2010-11.pdf

[5] Based on a search of the National Inventory of Collateral Consequences of Convictions, a project of the Council of State Governments. Database available at https://niccc.csgjusticecenter.org.

Advocate for Increased State Investment in Workforce Development Services

Our state, county, and municipalities appropriate very little towards workforce development services. The vast majority of funding for workforce comes from the federal government and is distributed to states and localities through the Workforce Innovation Opportunity Act (WIOA). Unfortunately, WIOA funding has decreased by 40% over the past two decades[6], leaving many programs sorely underfunded. On the other hand, pretrial detention is extremely costly to local taxpayers in Illinois. Through meaningful pretrial reforms, Illinois counties can divert funds from unnecessary pretrial incarceration and instead increase investments in workforce development and wraparound supportive services to improve the underlying conditions that foment crime and violence in our communities.

At a time with record low unemployment rates, employers in Illinois are desperate for talent, and report difficulties in filling open positions within their companies. Our state also faces a skills gap, meaning that there are more "middle skills jobs" (jobs that require more than a high school diploma but less than a college degree) than there are workers to fill them.[7] Unaffordable money bond and attendant pretrial incarceration effectively shrink the labor force in our state. Inflated conviction rates due to pretrial detention erect barriers that reduce prospects for workers to enter employment that offers family-sustaining wages. Investing in skills training and workforce development rather than costly pretrial detention would benefit employers, job seekers, and our state's economy as a whole.

The Jobs Council is eager to support the work of this commission, and happy to answer any questions that you may have. Thank you for your consideration.

Sincerely,

Mari Castaldi
Director of Policy and Advocacy
Chicago Jobs Council
mari@cjc.net
(312) 489-8544

[6] National Skills Coalition, "Funding Cuts Fact Sheet." https://www.nationalskillscoalition.org/resources/publications/file/Funding-Cuts-Fact-Sheet-March2019.pdf

[7] JP Morgan Chase, "Growing Skills for a Growing Chicago: Strengthening the Middle Skill Workforce in a City that Works." JP Morgan Chase, 2015. https://www.jpmorganchase.com/corporate/Corporate-Responsibility/document/54841-jpmc-gap-chicago-aw3-v2-accessible.pdfhttps://www.jpmorganchase.com/corporate/Corporate-Responsibility/document/54841-jpmc-gap-chicago-aw3-v2-accessible.pdf