



The Civic Federation

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The Impact of Cook County Bond Court on the Jail Population:

A Call for Increased Public Data and Analysis

November 15, 2017

The Civic Federation • 10 N. Dearborn Street • Chicago, IL 60602 • civicfed.org

The Civic Federation is an independent, non-partisan government research organization working to maximize the quality and cost-effectiveness of government services in the Chicago region and State of Illinois.

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EXECUTIVE SUMMARY

Across the political spectrum in the United States, there is a growing consensus that too many people are locked up in jail because they do not have the money required for release.¹ Unlike prisons, jails mainly hold individuals who have been arrested and charged with crimes but are not yet tried or convicted. The presumption of innocence—as well as the human, social and financial costs of incarceration—requires that only people who represent a public safety or flight risk should be detained. Under a money bail system, dangerous defendants with access to cash can be released while poor, non-violent defendants remain in jail. A person’s detention—or release—should not depend on the ability to pay cash bail.²

This report examines recent efforts to reduce the number of detainees in Cook County Jail by reforming practices in and around bond court. While many factors affect the size of the jail population, bond court judges play an important role because their decisions help determine whether defendants will be released or held in jail while awaiting trial.

In September 2013 the Illinois Supreme Court intervened in an unprecedented way to oversee changes in the bond court operations of Cook County Circuit Court. Between August 2013 and August 2017, the general jail population declined by about 30% from about 10,200 to approximately 7,100.³ Since the high court’s move, the share of defendants ordered to be released without having to pay money upfront increased from approximately 13% to 47% through May 2017.⁴

Although these figures appear to show a markedly favorable trend, the unfortunate truth is that they raise more questions than they answer. Due to a lack of public information, it is unclear how much of the decline in the jail population through August 2017 was tied to a reduction in low-level arrests and charges or to changes in bond court practices. It is not known whether there has been any change in the share of released defendants who fail to appear in court or commit new crimes.

These kinds of questions are particularly relevant now because of major policy changes that cannot be evaluated without adequate data. In July 2017, the Chief Judge Timothy Evans of the Cook County Circuit Court issued an order that is intended to prevent judges from setting

¹ Lydia Wheeler, “Law enforcement leaders back reform,” *The Hill*, September 8, 2017; Mark Pazniokas and Keith M. Phaneuf, “Bail reform wins final passage in Senate,” *The CT Mirror*, June 7, 2017; Kim Geiger, “Rauner signs law to change rules for paying cash to get out of jail,” *Chicago Tribune*, June 9, 2017; J.B. Wogan, “Can’t Afford Bail? In One State, That Doesn’t Matter Anymore,” *Governing*, November 9, 2016; Matt Arco, “Christie signs bail reform measure, lauds lawmakers for bipartisanship,” *NJ.com*, August 11, 2014.

² This position is consistent with the American Bar Association’s standards for pretrial release, which state that financial conditions should be used only to ensure appearance in court and not to respond to concerns for public safety. See American Bar Association, *Criminal Justice Standards – Pretrial Release*, https://www.americanbar.org/publications/criminal_justice_section_archive/crimjust_standards_pretrialrelease_toc.html (last accessed on November 13, 2017).

³ Cook County Sheriff’s Office, *Sheriff’s In-Custody Daily County Report*, August 26, 2013; *Sheriff’s Daily Report*, August 31, 2017

⁴ Civic Federation calculations based on Clerk of the Cook County Circuit Court, *Central Bond Court Disposition Audit*, January 2011 to May 2017. The percentages represent monthly averages before and after August 2013. Cases dismissed at the request of prosecutors were not included in the calculations. Inconsistencies over time in the data are discussed later in this report.

unaffordable money bail amounts.⁵ The order took effect on September 18, 2017 for felony cases and is scheduled to apply to misdemeanors as of January 1, 2018.

The Chief Judge has said that the share of bond orders requiring upfront cash payment plummeted since the new policy was implemented.⁶ According to Sheriff Tom Dart, the jail population dropped by almost 900 in the first month and a half after the order,⁷ bringing the total decline since August 2013 to about 39%. The statistical results of the order will be fully reviewed after a year by the Chief Judge's Office,⁸ but it remains to be seen whether the evaluation will be made available to the public.

Up to this point, the offices of the Chief Judge and Sheriff have closely controlled data about bond court and the jail. The Civic Federation is concerned that such tight control opens public officials to criticism for using data selectively, and not to measure policy effectiveness. This data should instead be viewed as a public resource and released to the maximum extent possible.

Cook County should follow the example of other jurisdictions, including New York City, Harris County, Texas and Washington, D.C., in more fully disclosing criminal justice data. This will enable the public to hold government officials accountable and have more informed discussions about criminal justice and the effective use of taxpayer resources.

Civic Federation Recommendations

The Civic Federation offers the following recommendations to improve data accessibility and coordination among the various agencies that make up the Cook County criminal justice system:

Issue 1: Cook County Bond Court Data

The Civic Federation recommends that the Chief Judge's Office:

- Post a dashboard on the Circuit Court's website that is updated on a regular and frequent basis with bond court orders and release results anonymously by judge and failure to appear and re-arrest rates; and
- Produce a periodic, publicly available, comprehensive analysis of bond court procedures and outcomes.

⁵Office of the Chief Judge, Circuit Court of Cook County, *General Order No. 18.8A – Procedures for Bail Hearings and Pretrial Release*, July 17, 2017,

<http://www.cookcountycourt.org/Manage/DivisionOrders/ViewDivisionOrder/tabid/298/ArticleId/2562/GENERAL-ORDER-NO-18-8A-Procedures-for-Bail-Hearings-and-Pretrial-Release.aspx> (last accessed on November 14, 2017).

⁶ Statement by Timothy C. Evans, Chief Judge of the Circuit Court of Cook County, at Cook County Board of Commissioners Finance Committee Meeting, October 27, 2017, <https://cook-county.legistar.com/MeetingDetail.aspx?ID=568667&GUID=907B19C2-7CCF-4E94-B548-A36E2E434A43&Options=&Search=> (last accessed November 13, 2017).

⁷ Statement by Cook County Sheriff Tom Dart, *Chicago Tonight*, WTTW Channel 11, November 2, 2017.

⁸ Office of the Chief Judge, Circuit Court of Cook County, "Evans changes cash-bail process for more pretrial release," *news release*, July 17, 2017.

Issue 2: Cook County Jail Data

The Civic Federation recommends that the Sheriff's Office:

- Post the Sheriff's Daily Reports on the Sheriff's website;
- Post a dashboard with demographic and offense characteristics of detainees; and
- Produce publicly available, comprehensive analyses of the jail population and trends that are updated on a regular and frequent basis.

Issue 3: Special Reports on Bond Court

The Civic Federation recommends that the Administrative Office of the Illinois Courts and the Chief Judge's Office publish analyses of the Public Safety Assessment risk-assessment tool and recent policy change on cash bail along with the supporting data.

Issue 4: Special Reports on the Jail

The Civic Federation recommends that the Sheriff's Office—with cooperation from the Chief Judge's Office—produce and post on its website reports on the use of electronic monitoring, the prevalence and severity of detainees' mental health problems and the criminal backgrounds of pretrial detainees.

Issue 5: Analysis of the Impact of Jail Population Reduction on Jail Costs

The Civic Federation recommends that Cook County budget officials in cooperation with the Sheriff and the Chief Judge examine the feasibility of cost savings and efficiencies over time as a result of the reduction in the jail population. The analysis should take into account the costs of community corrections, including electronic monitoring under the Sheriff and pretrial services supervision by the Chief Judge.

Issue 6: Criminal Justice Coordinating Council

The Civic Federation recommends that Cook County establish a Criminal Justice Coordinating Council, led by a representative of the Illinois Supreme Court, to improve justice planning, analysis and coordination capabilities.

Civic Federation Findings

- Between August 2013 and August 2017, the general jail population declined by about 30% from about 10,200 to approximately 7,100.
- Since that time the general population has fallen to approximately 6,200 on November 1, apparently as a result of the new bond court policy by the Chief Judge intended to limit money bail to affordable amounts. The total decline since August 2013 has been approximately 39%.
- The jail population is at its lowest level since 1988, but it remains to be seen how this trend will affect the cost of the jail, estimated at about \$550 million annually, or an average of more than \$61,000 per detainee.⁹

⁹ Illinois Sentencing Policy Advisory Council, *Quantifying the County Adult Criminal Justice Costs in Illinois*, December 6, 2016, p. 5, http://www.icjia.state.il.us/spac/pdf/Quantifying_

- The number of defendants on the Sheriff's electronic monitoring (EM) program more than tripled from a daily average of 523 in August 2011 to 2,170 on August 31, 2017. There has been no public assessment of whether EM has been used appropriately or effectively.
- Since Cook County Board President Toni Preckwinkle requested assistance from the Illinois Supreme Court in 2013, the share of defendants ordered to be released without having to pay money upfront increased from approximately 13% to 47% through May 2017.
- A new tool called the Public Safety Assessment, designed to help bond court judges make release decisions, was introduced in July 2015. But there has been no comprehensive report about its effectiveness and the Chief Judge's Office has not released data or analysis sufficient to confirm its impact.
- After being evaluated with the new tool, 16.7% of felony defendants released missed court appearances after nine months and 17.9% had at least one new felony or misdemeanor charge, according to information from the Chief Judge's Office. The numbers appear to be line with national statistics but are higher than previous figures released by the Chief Judge's Office.
- The Administrative Office of the Illinois Courts is evaluating the use of the Public Safety Assessment in Cook, McLean and Kane Counties but has not determined whether the study will be made available to the public.
- The new bail policy appears to have significantly reduced the use of cash bail as a barrier to a defendant's release. The Chief Judge's Office plans to analyze the order's outcome after one year, but it is not clear whether the results of this evaluation will be made public.
- Data on Cook County's bond court and jail are not readily available, with lengthy delays and lack of responsiveness by public officials experienced by many organizations. To obtain Circuit Court data, requests must be submitted to the Chief Judge; if approved, the Chief Judge directs the Clerk of the Circuit to process the data request.
- Beginning in 2009, the Sheriff's Office released reports with detailed analysis of jail demographics and trends, but no similar analysis has been published since 2013.
- Other large jurisdictions, such as New York City; Washington, DC; Harris County, Texas and Mecklenburg County, North Carolina do a better job of public disclosure and could serve as models for Cook County.

County_Adult_Criminal_Justice_Costs_in_Illinois_120616.pdf (last accessed on November 13, 2017). A study by the Cook County President's Office, obtained by the Civic Federation under the Illinois Freedom of Information Act, estimated total jail costs at \$528.0 million in FY2014, or \$162 per detainee per day.

INTRODUCTION

Across the political spectrum in the United States, there is a growing consensus that too many people are locked up in jail because they do not have the money required for release.¹⁰ Unlike prisons, jails mainly hold individuals who have been arrested and charged with crimes but are not yet tried or convicted. The presumption of innocence—as well as the human, social and financial costs of incarceration—requires that only people who represent a public safety or flight risk should be detained. Under a money bail system, dangerous defendants with access to cash can be released while poor, non-violent defendants remain in jail. A person’s detention—or release—should not depend on the ability to pay cash bail.¹¹

This report examines recent efforts to reduce the number of detainees in Cook County Jail by reforming practices in and around bond court. While many factors affect the size of the jail population, bond court judges play an important role because their decisions help determine whether defendants will be released or held in jail while awaiting trial.

In September 2013 the Illinois Supreme Court intervened in an unprecedented way to oversee changes in the bond court operations of Cook County Circuit Court. Between August 2013 and August 2017, the general jail population declined by about 30% from about 10,200 to approximately 7,100.¹² Since the high court’s move, the share of defendants ordered to be released without having to pay money upfront increased from approximately 13% to 47% through May 2017.¹³

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These kinds of questions are particularly relevant now because of new policies that cannot be evaluated without adequate data. In the most recent example, the Chief Judge Timothy Evans of the Cook County Circuit Court issued an order in July 2017 that is intended to prevent judges

¹⁰ Lydia Wheeler, “Law enforcement leaders back reform,” *The Hill*, September 8, 2017; Mark Pazniokas and Keith M. Phaneuf, “Bail reform wins final passage in Senate,” *The CT Mirror*, June 7, 2017; Kim Geiger, “Rauner signs law to change rules for paying cash to get out of jail,” *Chicago Tribune*, June 9, 2017; J.B. Wogan, “Can’t Afford Bail? In One State, That Doesn’t Matter Anymore,” *Governing*, November 9, 2016; Matt Arco, “Christie signs bail reform measure, lauds lawmakers for bipartisanship,” *NJ.com*, August 11, 2014.

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¹² Cook County Sheriff’s Office, *Sheriff’s In-Custody Daily County Report*, August 26, 2013; *Sheriff’s Daily Report*, August 31, 2017

¹³ Civic Federation calculations based on Clerk of the Cook County Circuit Court, *Central Bond Court Disposition Audit*, January 2011 to May 2017. The percentages represent monthly averages before and after August 2013. Cases dismissed at the request of prosecutors were not included in the calculations. Inconsistencies over time in the data are discussed later in this report.

from setting unaffordable money bail amounts.¹⁴ The order took effect on September 18, 2017 for felony cases and is scheduled to apply to misdemeanors as of January 1, 2018.

The Chief Judge has said that the share of bond orders requiring upfront cash payment plummeted since the new policy was implemented.¹⁵ According to Sheriff Tom Dart, the jail population dropped by almost 900 in the first month and a half after the order,¹⁶ bringing the total decline since August 2013 to about 39%. The statistical results of the order will be fully reviewed after a year by the Chief Judge's Office,¹⁷ but it remains to be seen whether the evaluation will be made available to the public.

This report begins with a brief overview of the Cook County criminal justice system and bond court process. The report then reviews recent developments related to bond court and examines the limited data that is publicly available about bond court and the jail. It concludes with recommendations for significantly expanded public access to information.

¹⁴Office of the Chief Judge, Circuit Court of Cook County, *General Order No. 18.8A – Procedures for Bail Hearings and Pretrial Release*, July 17, 2017, <http://www.cookcountycourt.org/Manage/DivisionOrders/ViewDivisionOrder/tabid/298/ArticleId/2562/GENERAL-ORDER-NO-18-8A-Procedures-for-Bail-Hearings-and-Pretrial-Release.aspx> (last accessed on November 14, 2017).

¹⁵ Statement by Timothy C. Evans, Chief Judge of the Circuit Court of Cook County, at Cook County Board of Commissioners Finance Committee Meeting, October 27, 2017, <https://cook-county.legistar.com/MeetingDetail.aspx?ID=568667&GUID=907B19C2-7CCF-4E94-B548-A36E2E434A43&Options=&Search=> (last accessed November 13, 2017).

¹⁶ Statement by Cook County Sheriff Tom Dart, *Chicago Tonight*, WTTW Channel 11, November 2, 2017.

¹⁷ Office of the Chief Judge, Circuit Court of Cook County, "Evans changes cash-bail process for more pretrial release," *news release*, July 17, 2017.

COOK COUNTY CRIMINAL JUSTICE SYSTEM AND BOND COURT OVERVIEW

The Cook County criminal justice system is composed of five separate agencies, four of which are headed by elected officials. The Sheriff, State's Attorney and Clerk of the Circuit Court are each elected directly by voters; the Chief Judge of the Circuit Cook is elected by voters to be a circuit judge and then elected by other judges to oversee the court. The Public Defender is appointed by the President of the County Board of Commissioners.

The Board President, although not in charge of a criminal justice agency, plays a leading role in the system and is directly elected by voters.¹⁸ As the County's Chief Executive, the Board President influences policy decisions and possesses executive authority over the budgets of all County offices and departments, including those of the other elected officials.¹⁹

The Chicago Police Department is not part of County government, but the agency is an important component of the criminal justice system because its arrest policies have a significant effect on the number of people held in Cook County Jail. Chicago's Mayor appoints the City's police superintendent.

Criminal Justice System Agencies

The Sheriff's Office operates the County Jail, which occupies more than eight city blocks on Chicago's Southwest Side and is one of the country's largest jails located at a single site.²⁰ The Sheriff also provides security for all court facilities, which involves monitoring the safety of court officials and jurors; handling prisoners; and screening people entering courthouses. The Sheriff's Police Department, the third largest police department in the State of Illinois, provides police service to the unincorporated areas of Cook County and certain other jurisdictions.²¹

The Cook County Circuit Court is the largest of the 24 judicial circuits in Illinois and one of the largest unified court systems in the world.²² All trial courts are consolidated under the Chief Judge, who has centralized authority to coordinate and supervise the administrative functions of the Court. The Court had 391 judges in 2015, and approximately 1.1 million new cases were filed that year.²³ The Court has authority over the Juvenile Temporary Detention Center, the County's detention facility for young people, and is responsible for Pretrial Services, which interviews defendants to help judges make bail decisions and monitors released defendants who are awaiting trial. Pretrial refers to the phase of a defendant's case beginning at arrest and ending at final case disposition, such as a guilty plea or finding of guilt or innocence at trial.

¹⁸ The Board President's role depends on the prominence of criminal justice in his or her policy agenda.

¹⁹ Civic Federation, *Cook County Modernization Report: A Roadmap for Cook County Government*, October 25, 2010, pp. 145-146, <http://civicfed.org/sites/default/files/CookCountyModernizationReport.pdf> (last accessed on November 13, 2017).

²⁰ Cook County Sheriff website, http://www.cookcountysheriff.org/doc/doc_main.html (last accessed on November 14, 2017). Single-site facilities are distinguished from jail systems such as those in New York and Los Angeles that have multiple sites across their jurisdictions.

²¹ Cook County Sheriff website, http://www.cookcountysheriff.org/sheriffs_police/ccspd_main.html (last accessed on November 14, 2017).

²² Cook County FY2017 Appropriation Bill, Volume 2, p. V-8.

²³ Illinois Supreme Court, Administrative Office of the Illinois Courts, *2015 Annual Report of the Illinois Courts*, pp. 14-15.

The Clerk of the Circuit Court is responsible for maintaining all court files and papers. Clerk's personnel attend court sessions to make records of proceedings and determinations. The Clerk also collects fines and fees for the Circuit Court.

The State's Attorney's Office prosecutes all misdemeanor and felony crimes committed in the County. It is the second largest prosecutor's office in the U.S., with more than 700 attorneys.²⁴ In addition to direct criminal prosecution, assistant State's Attorneys file legal actions to enforce child support orders, protect consumers and the elderly and assist victims of sexual assault and domestic violence. The State's Attorney also serves as legal counsel for the government of Cook County.

The Law Office of the Cook County Public Defender provides legal services for clients who are not financially able to pay for private legal representation in pending criminal, child protection and delinquency matters. The Public Defender is one of the largest criminal defense firms in Cook County, with over 500 attorneys staffing courtrooms throughout the County.²⁵

Cost of the Criminal Justice System

In fiscal year 2017, which ends on November 30, Cook County's budget for public safety was \$1.4 billion, or nearly one-third of the County's total \$4.4 billion operating budget.²⁶ Public safety accounts for 14,036.0 full-time equivalent positions (FTEs), or 57.7% of the County's total 23,233.4 positions in the current fiscal year.²⁷ About 86% of public safety appropriations are related to personnel expenses.²⁸

²⁴ Cook County State's Attorney website, <https://www.cookcountystatesattorney.org/about> (last accessed on November 13, 2017).

²⁵ Law Office of the Cook County Public Defender website, <https://www.cookcountypublicdefender.org/about> (last accessed on November 13, 2017).

²⁶ Cook County FY2017 Appropriation Bill, Volume 1, p. 65; Volume 2, pp. AA-1 to AA-2, BB-1, U-1, V-1 to V-2, W-1, X-1, Y-1 and Z-1. These figures include appropriations from Cook County taxes and fees as well as federal and State grants. The Illinois Supreme Court partially reimburses the County for salaries of probation and court services personnel.

²⁷ Cook County FY2017 Appropriation Bill, Volume 1, p. 103; Volume 2, pp. AA-1 to AA-2, BB-1, U-1, V-1 to V-2, W-1, X-1, Y-1 and Z-1.

²⁸ Cook County FY2017 Appropriation Bill, Volume 2, pp. AA-3, AA-5, BB-4, U-5, U-10, V-3, V-6, W-2, W-4, X-3, Y-2, Z-2 and Z-4. Personal services include salaries, employee insurance coverage and other employee costs such as training and travel expenses, but exclude pension costs.

The following table shows FY2017 appropriations and personnel levels for the major public safety agencies in the County’s budget. The Sheriff’s Office is by far the largest agency, with 45.9% of total budgeted spending and 47.5% of FTEs. In FY2017 the Sheriff’s Department of Corrections, which runs the jail, has a budget of \$401.1 million and 4,267.7 FTEs.²⁹

| Cook County FY2017 Public Safety Appropriations and Positions | | | | |
|--|--|--|-----------------|--|
| Agency | Appropriations (in \$ millions) | % of Public Safety Appropriations | FTEs* | % of Public Safety FTEs |
| Sheriff | \$ 633.4 | 45.9% | 6,667.3 | 47.5% |
| Chief Judge | \$ 284.6 | 20.6% | 3,101.0 | 22.1% |
| State's Attorney | \$ 148.5 | 10.8% | 1,326.9 | 9.5% |
| Clerk of the Circuit Court | \$ 126.1 | 9.1% | 1,629.3 | 11.6% |
| Public Defender | \$ 76.2 | 5.5% | 681.0 | 4.9% |
| Other** | \$ 112.1 | 8.8% | 630.5 | 4.7% |
| Total | \$ 1,380.9 | 100.0% | 14,036.0 | 100.0% |

*Full-time equivalent positions.

**Facilities/Asset Management, Public Administrator and Department of Homeland Security and Emergency Management.

Source: Cook County FY2017 Appropriation Bill, Volume 2, pp. AA-1 to AA-2; BB-1, U-1, V-1 to V-2, W-1, X-1, Y-1, Z-1.

The budget category of public safety does not correspond exactly to the County’s criminal justice operations. The public safety category is too broad because it includes non-criminal areas such as the civil litigation activities of the Clerk and Circuit Court. On the other hand, the budget numbers do not give a complete picture of total costs because annual expenses for pensions and debt service are centralized in the County’s budget instead of being allocated to each agency.

Total costs are particularly understated for operations like the jail that are both personnel- and building-intensive and are entirely concerned with criminal justice. A study by the Illinois Sentencing Policy Advisory Council estimated total Cook County Jail spending in FY2016—including pensions and debt service—at \$549.6 million, or an average of \$167 per detainee per day.³⁰ In contrast, the Cook County Department of Corrections’ FY2016 budget was \$327.3 million.³¹

The high cost of public safety has been central to discussion of the budgetary challenges facing Cook County in the upcoming fiscal year.³² The County faces a \$200 million budget gap in

²⁹ Cook County FY2017 Appropriations Bill, Volume 2, p. Z-53.

³⁰ Illinois Sentencing Policy Advisory Council, *Quantifying the County Adult Criminal Justice Costs in Illinois*, December 6, 2016, p. 5. A study by the Cook County President’s Office, obtained by the Civic Federation under the Illinois Freedom of Information Act, estimated total jail costs at \$528.0 million in FY2014, or \$162 per detainee per day.

³¹ Cook County FY2016 Appropriation Bill, Volume 2, p. Z-47. The FY2016 budget number does not include employee health insurance and certain other costs that were moved out of centralized costs and into department budgets in FY2017.

³² Greg Hinz, “Is this any way to run a jail,” *Crain’s Chicago Business*, October 20, 2017.

FY2018 after the repeal of a sweetened beverage tax that was a key component of the Board President's proposed budget.³³

Bond Court Process

Numerous factors influence the number of people in jail, including the crime rate. In the criminal justice system, key decisions are made by the police, who determine whether to arrest individuals; prosecutors, who decide whether to charge or divert people who have been arrested; bond court judges, who rule on whether defendants will be jailed or released and under what conditions; and other court officials, including criminal judges and attorneys, whose actions can speed up or slow down pending cases, thus determining how long defendants who are not released remain in jail.³⁴

Bond court is the last decision point in the process before a defendant ends up in jail. Individuals arrested and charged with felonies in Chicago generally have bond hearings at Central Bond Court (now called the Pretrial Division) in the Leighton Criminal Court Building, which is adjacent to the jail.³⁵ Chicago accounts for approximately 61% of the felony arrests in Cook County.³⁶

Central Bond Court begins at 1:30 p.m. on weekdays. In the early morning, felony defendants are transported by Chicago police officers to the basement of the jail, where they go through a series of interviews.³⁷ The process now includes screenings for mental health and substance abuse issues by Cook County public health system social workers.³⁸ Defendants are then taken to a holding cell behind the courtroom.

The courtroom is typically packed with family members, often including children. Before court begins, a public defender or other court worker hands out information about bond court and briefly explains the process.

³³ Hal Dardick, "With pop tax repealed, Preckwinkle says up to commissioners to fix budget," Chicago Tribune, October 12, 2017. For more information, see the Civic Federation, *Cook County's FY2018 Revenue Crisis: Opportunities for Savings*, October 31, 2017, <https://www.civicfed.org/sites/default/files/blog/documents/cookcountyfy18revenuecrisisbrief.pdf> (last accessed on November 13, 2017).

³⁴ Ram Subramanian et al., Vera Institute for Justice, *Incarceration's Front Door: The Misuse of Jails in America*, February 2015, p. 18.

³⁵ Felony cases are criminal charges that involve a sentence of a year or more in prison. Individuals arrested in Chicago for less serious crimes called misdemeanors post bond at the police station or have bail hearings at branch courts across the City on weekdays. In suburban Cook County, bail hearings are held on weekdays in five suburban court districts. On weekends and holidays, all bail hearings in the County for misdemeanors and felonies are held at Central Bond Court. For more information, see Illinois Circuit Court of Cook County website, <http://www.cookcountycourt.org/ABOUTTHECOURT/MunicipalDepartment/FirstMunicipalDistrictChicago/BondCourt.aspx> (last accessed on November 14, 2017).

³⁶ Criminal History Record Information generated by the Illinois Criminal Justice Information Authority.

³⁷ For a detailed description of the Central Bond Court process in 2014, see Illinois Supreme Court Administrative Office of the Illinois Courts, *Circuit Court of Cook County Pretrial Operational Review*, March 2014, pp. 38-45, http://www.illinoiscourts.gov/SupremeCourt/Reports/Pretrial/Pretrial_Operational_Review_Report.pdf (last accessed on November 13, 2017). The Civic Federation also observed seven bond court sessions from July 2015 through October 2017.

³⁸ Communication between the Civic Federation and the Cook Public Defender's Office, August 24, 2017.

Until recently, hearings in Central Bond Court typically took less than a minute.³⁹ The pace of the proceedings has slowed somewhat since September 18, 2017, when a new policy on money bail took effect for felony cases.⁴⁰ The new policy requires judges to explain why cash bail is needed, ask defendants how much they can afford to pay and state on the record that the amount is affordable. However, it can still be difficult to understand what is happening, partly due to poor courtroom acoustics.

The judge calls out a defendant's name, the individual is led by a deputy sheriff to the bench and the judge reads the charge and finds probable cause.⁴¹ Then a Pretrial Services officer (or sometimes the judge) announces the defendant's Public Safety Assessment (PSA) score, which is intended to measure the risk of release, and the related release recommendation.⁴²

An assistant State's Attorney reads the details of the charged offense and gives any criminal history, including outstanding warrants and failures to appear for court dates. A Public Defender (or occasionally a private attorney) gives mitigating factors, such as the defendant's age, duration of residence in Cook County, education, job and family or home situation.

At the end of the hearing, the judge sets bail. A police officer seated near the judge holds up a square of paper with the date and location of the next court hearing so family members can see the information.

Bail is often assumed by the public to be inextricably linked to money. The confusion is understandable, given the varied uses of the word, even by legal professionals and within state statutes.⁴³ In this report, bail means a process of pretrial release; no bail means that a defendant may not be released. Bonds are agreements by defendants to abide by the conditions of release set by the judge. Defendants post cash as a form of bond to meet the terms of bail.⁴⁴

The Illinois Bail Statute provides that all defendants are eligible for bail before conviction, "except where the proof is evident, or the presumption is great, that the defendant is guilty" of certain offenses, including offenses that carry a maximum sentence of life imprisonment and offenses where the minimum sentence includes imprisonment without parole.⁴⁵ In setting money

³⁹ Illinois Supreme Court Administrative Office of the Illinois Courts, *Circuit Court of Cook County Pretrial Operational Review*, March 2014, pp. 44. The cases of defendants represented by private attorneys, which are called first, took four to five minutes; cases handled by public defenders took 30 seconds or less. This description has been confirmed by Civic Federation observations of seven bond court sessions from July 2015 through October 2017 and numerous other reports, including Cook County Sheriff's Justice Institute, *Central Bond Court Report*, April 2016.

⁴⁰ Office of the Chief Judge, Circuit Court of Cook County, *General Order No. 18.8A – Procedures for Bail Hearings and Pretrial Release*, July 17, 2017. The order took is scheduled to apply to misdemeanors on January 1, 2018.

⁴¹ Illinois Supreme Court Administrative Office of the Illinois Courts, *Circuit Court of Cook County Pretrial Operational Review*, March 2014, p. 15. According to the U.S. Supreme Court, a person arrested without a warrant must be promptly taken before a judge for a determination of probable cause for the arrest.

⁴² The Public Safety Assessment is a relatively new development and will be discussed in the next section of this report.

⁴³ Timothy R. Schnacke, *Fundamentals of Bail: A Resource Guide for Pretrial Practitioners and a Framework for American Pretrial Reform*, September 2014, p. 2.

⁴⁴ Illinois Circuit Court of Cook County website.

⁴⁵ 725 ILCS 5/110-4(a). Capital offenses are listed in the statute, but Illinois abolished the death penalty in 2011.

bail or other conditions of release, the law requires judges to consider more than 30 factors relating to the nature of the charges, the defendant's criminal history, prior instances of failure to appear and the defendant's home and community information.

The law directs judges to require upfront payments only when no other conditions of release will reasonably ensure that defendants will appear for future court dates and not pose a public safety risk.⁴⁶ The law states that any cash bail should be "not oppressive" and "considerate of the financial ability of the accused."⁴⁷ This language was recently strengthened by a new law that takes effect in January 2018. The new law includes "a presumption that any conditions of release imposed shall be non-monetary in nature" and "the least restrictive conditions" necessary.⁴⁸

It should be noted that the Illinois bail law appears to be internally contradictory. Both before and after the recent amendments, the law required that money bail be set according to a defendant's ability to pay. This is in accordance with the traditional purpose of cash bail, which is to help ensure that a defendant make future court appearances.⁴⁹ However, the Illinois law also allows judges to consider public safety when setting money bail.⁵⁰ The only way cash bail can protect the public is by requiring defendants to deposit more than they can afford and thus preventing pretrial release.

Regardless of the statute's interpretation, cash bail has been common in Cook County.⁵¹ Judges issue deposit bonds, or D-Bonds, which require upfront payment of 10% of the bail amount. A cash bond, or C-Bond, requires payment of 100% of the bail amount. No Bail orders do not allow any possibility of pre-trial release, and, as discussed above, are required for certain offenses.⁵² Recognizance bonds, or I-Bonds, allow defendants to be released without any upfront payment. *Nolle Prosequi* orders are issued when the State's Attorney decides not to continue prosecution of the case.

Bond to Stand orders are issued when defendants are arrested on warrants, usually for violating parole or the terms of a previous bond order. The judge issuing the warrant sets bail prior to the arrest, as a D-Bond, C-Bond or No Bail order. After arrest, the bond court judge traditionally allows the order on the warrant "to stand." Additionally, in the case of monetary bonds, the defendant must remain in jail until an appearance before the judge who issued the warrant, usually within two days of arrest.⁵³

Since June 2013, Cook County judges have also issued IEM-Bonds, which involve no upfront cash payment but require defendants to stay at home (with certain exceptions) and to wear an

⁴⁶ 725 ILCS 5/110-2.

⁴⁷ 725 ILCS 5/110-5(b) (2) and (3).

⁴⁸ Public Act 100-0001, signed June 9, 2017; 725 ILCS 5/110-5(a-5).

⁴⁹ Criminal Justice Policy Program, Harvard Law School, *Moving Beyond Money: A Primer on Bail Reform*, October 2016, p. 8.

⁵⁰ 725 ILCS 5/110-4(a) and 110-5(a).

⁵¹ In 1963 Illinois eliminated the role of bail bondsmen, agents who pay money bail for defendants in exchange for a fee.

⁵² 725 ILCS 5/110-4(a).

⁵³ Communication between the Civic Federation and the Cook County Public Defender's Office, October 6, 2017.

electronic monitoring (EM) device around their ankle.⁵⁴ Individuals in the EM program are monitored by the Sheriff's staff through the ankle device, which sends a signal to a receiver connected to the person's home telephone.⁵⁵ Even though IEM-Bonds do not involve upfront payment, there is a dollar amount connected with the orders. Defendants who have the money to pay the 10% deposit can avoid electronic monitoring. Individuals who are homeless or live in public housing are not eligible for EM and are detained unless they find other accommodations or can post the deposit amount.

After bond court, defendants who are not released—either because their friends and relatives cannot pay the required money bail or because the judge did not allow bail—are booked into the jail. Individuals eligible for EM are also admitted to the jail before being placed in the Sheriff's electronic monitoring program.

Subsequent hearings may be held to reconsider initial bond orders. For the past several years, the Public Defender's Office has regularly reviewed D-Bond orders and filed motions to reconsider amounts that appear to be excessive based on the defendant's background and charged offense.⁵⁶ The State's new bail law requires re-hearings within seven days for defendants charged with lower-level offenses who cannot afford to pay the required cash amount.⁵⁷ The Chief Judge's new bond court order requires such re-hearings for all detainees with unaffordable bail.⁵⁸

The chart on the following page shows major steps in the pretrial process from arrest through possible rehearing of a judge's bail decision.

⁵⁴ The Chief Judge's Office, through the Adult Probation Department's Home Confinement Unit, operates another electronic monitoring program, which is known as Curfew EM. Individuals in this program are confined overnight.

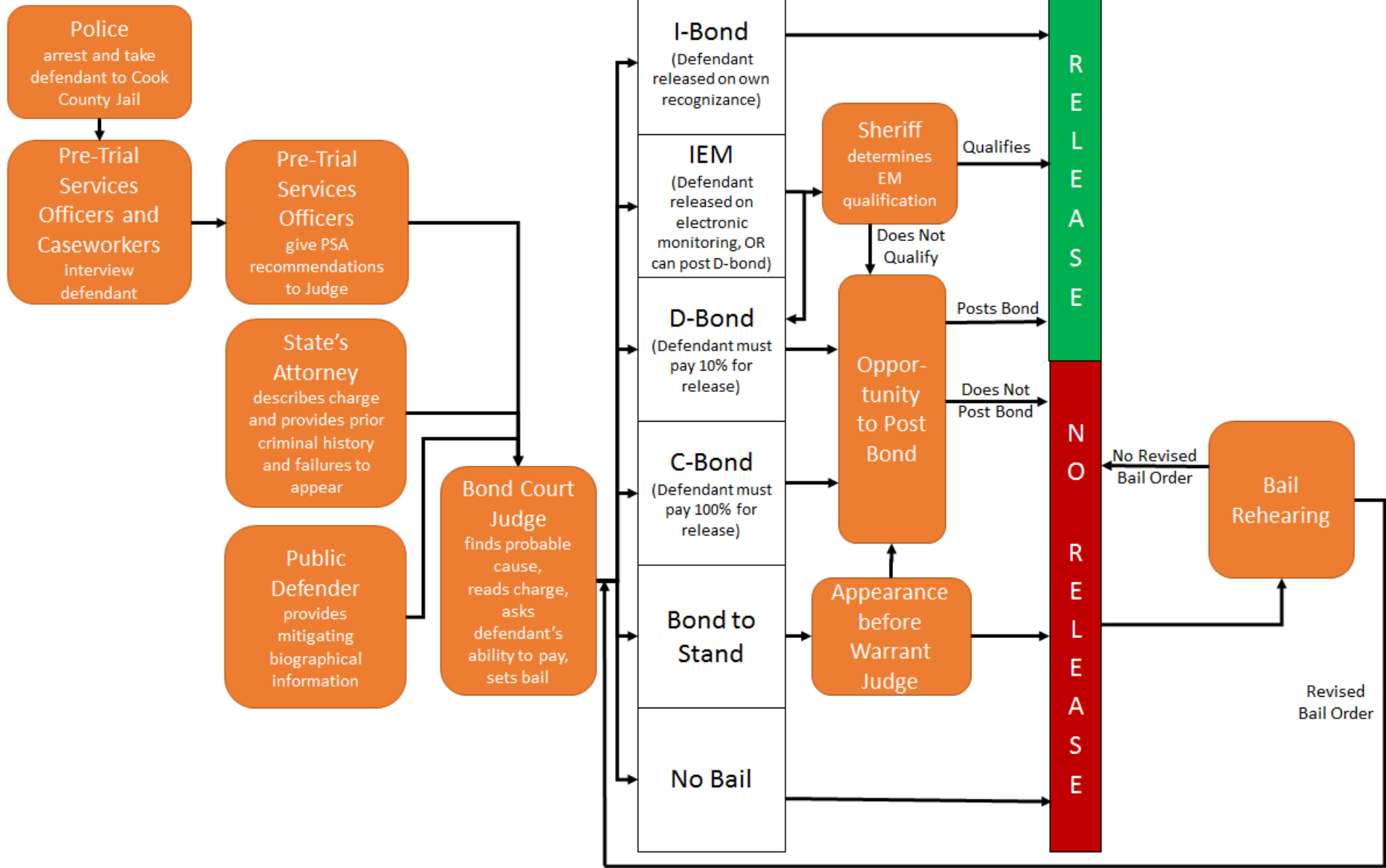
⁵⁵ Illinois Supreme Court, Administrative Office of the Illinois Courts, *Circuit Court of Cook County Pretrial Operational Review*, March 2014, p. 36.

⁵⁶ Communication between the Civic Federation and the Public Defender's Office, August 24, 2017.

⁵⁷ Public Act 100-0001, signed June 9, 2017; 725 ILCS 5/110-6(a-5).

⁵⁸ Office of the Chief Judge, Circuit Court of Cook County, *General Order No. 18.8A – Procedures for Bail Hearings and Pretrial Release*, July 17, 2017.

| Holding and Court Services | Bail Hearing | Bond Court Order | Release/No Release | Rehearing |
|----------------------------|--------------|------------------|--------------------|-----------|
|----------------------------|--------------|------------------|--------------------|-----------|



RECENT DEVELOPMENTS CONCERNING BOND COURT

For many years, criminal justice experts and community activists have raised questions about the prevalence of money bail in Cook County and its role in the jail's chronic overcrowding:

- A report in 1987 found that nearly 82% of defendants had to make upfront payments to avoid jail, even though only about 23% were charged with violent crimes.⁵⁹
- A 2005 study concluded that the judicial process—and specifically high levels of money bail—“is keeping more defendants in jail who could appropriately be released.”⁶⁰
- A three-judge panel of the U.S. District Court in Chicago stated in January 2011 that many of the individuals held in jail awaiting trial would have been released with small or no cash bail amounts “were it not for the unexplained reluctance of state judges in Cook County to set affordable terms for bail.”⁶¹

Cook County Board President Toni Preckwinkle, who took office in December 2010, made reducing the jail population a top priority. Citing the cost of incarceration and damage to minority communities, the Board President pledged to lower the number of non-violent offenders in jail and work to keep them from returning through investments in drug abuse and mental health treatment, education and job training.⁶²

Attempts at Reform

The Board President began by reinvigorating the Cook County Justice Advisory Council (JAC), which held its first meeting in four years in 2011.⁶³ In July 2012 the JAC issued a report that called for numerous changes in Central Bond Court procedures.⁶⁴

Some of the recommended changes were undertaken at the Board President's initiative, such as creating a new space in the jail's basement with individual carrels for assistant public defenders and pretrial services officers to interview defendants before bail hearings. Interviews were previously conducted through the bars of a holding pen in an area adjacent to bond court.⁶⁵

⁵⁹ Christine A. Devitt et al., Illinois Criminal Justice Information Authority, *The Pretrial Process in Cook County: An Analysis of Bond Decisions Made in Felony Cases During 1982-83*, August 1987, pp. 37 and 45. Cited in Eric H. Holder, Jr.'s Memorandum to Cook County Public Defender Amy P. Campanelli on Cook County's Wealth-Based Pretrial System, July 12, 2017, p. 4.

⁶⁰ U.S. Bureau of Justice Assistance and American University, Criminal Courts Technical Assistance Project, *Review of the Cook County Felony Case Process and Its Impact on the Jail Population*, September 26, 2005, p. 22.

⁶¹ *United States v. Cook County, Ill.*, 761 F. Supp. 2d 794, 800 (N.D. Ill. 2011). Cited in Eric H. Holder, Jr.'s Memorandum to Cook County Public Defender Amy P. Campanelli on Cook County's Wealth-Based Pretrial System, July 12, 2017, p. 7.

⁶² Mick Dumke, “Toni Preckwinkle's plan to shrink the jail population,” *Chicago Reader*, December 22, 2011. The Board President also set a goal of reducing the number of young people locked up at the Juvenile Temporary Detention Center.

⁶³ Cook County Board President, *Cook County: Our First Year*, December 6, 2011, p. 21. The JAC was then called the Judicial Advisory Council.

⁶⁴ Cook County Justice Advisory Council, *Examination of Cook County Bond Court (January 2012 – June 2012)*, July 12, 2012, http://www.suffredin.org/pdfs/2012-07_JusticeAdvisoryExaminationofCCBondCourt.pdf (last accessed on November 13, 2017).

⁶⁵ David Spearman, “All Eyes on Reform: How Criminal Justice is Changing in Cook County,” *Chicago Policy Review*, October 23, 2013.

County funding was made available for residential placements of detainees who could not be placed on electronic monitoring (EM) because they were homeless.⁶⁶

The JAC also worked with the Public Defender's Office on a project to get defendants' cash bail amounts reduced after bond court.⁶⁷ With a grant from the MacArthur Foundation secured by the JAC, the Public Defender's Office hired caseworkers to gather background information about detainees that could be used as the basis for motions to reconsider initial bond orders at the next hearing.

Changes that required the cooperation of other County criminal justice leaders proved more difficult to achieve. In a speech in December 2015, Illinois Supreme Court Justice and JAC Chairman Anne Burke said attempts to improve bond court were limited by conflicting agendas that made it difficult even to get the leaders into the same room.⁶⁸

Strained relations among the criminal justice system's separately elected officials were not new in Cook County. However, tensions were running particularly high in 2012 and 2013 because of an increase in the jail population after several years of declines. On February 25, 2013, there were 9,801 detainees who filled 96% of available beds.⁶⁹ In 2011 the average daily population was approximately 8,800.⁷⁰

In media reports, the rise in the jail population was attributed variously to increased arrests, County budget pressures, slow processing of court cases and more mentally ill detainees due to the closure of State of Illinois and City of Chicago mental health facilities.⁷¹ Criminal justice system participants blamed each other for the situation.⁷²

The dispute played out in U.S. District Court in Chicago, where federal judges had been overseeing crowded conditions at the jail since 1974. The latest consent decree, filed in 2010, was a sweeping agreement by the County to improve detainee security, upgrade physical facilities and provide better medical care and mental health treatment.⁷³ Overcrowding made it harder to comply with the decree. The Sheriff was dismissed from federal oversight in June

⁶⁶ Cook County Justice Advisory Council, *Examination of Cook County Bond Court (January 2012 – June 2012)*, July 12, 2012, p. 7.

⁶⁷ Communication between the Civic Federation and the Public Defender's Office, August 24, 2017.

⁶⁸ Illinois Supreme Court Justice Anne Burke, *A Candid Assessment of the Justice System*, Keynote Presentation at Robert R. McCormick Foundation Advanced Journalism Seminar, December 10, 2015.

⁶⁹ *United States v. Cook County, Ill.*, No. 10-2946 (N.D. Ill filed May 13, 2010). See *United States' Statement Regarding Availability of Electronic Monitoring as a Condition of Release*, March 8, 2013, p. 7. Some of the jail's divisions exceeded 100% capacity because detainees had to be housed by classification status, including security level, gender, health status and other factors.

⁷⁰ Cook County Government, *STAR Report, 4th Quarter 2012*, p. 114, <https://performance.cookcountyil.gov/views/hgr7-jdr8/files/KohNcqV8rAB-IH7gyiste8nAq1vE1pamko9Io82Lzm4?filename=STAR-Report-FY2012-Q4.pdf> (last accessed on November 13, 2017).

⁷¹ Steve Schmadeke, "10,000 inmates: Cook County Jail's population soars, driven by police crackdowns on violent crime, the closing of mental health facilities and need for court reform," *Chicago Tribune*, September 13, 2013.

⁷² "Cook County Jail Near Capacity," *Chicago Tonight*, WTTW Channel 11, April 2, 2013.

⁷³ *United States v. Cook County, Ill.*, No. 10-2946 (N.D. Ill filed May 13, 2010).

2017, after having met all the terms of the agreement, but the jail's health services remain under federal supervision.

In federal court filings in 2013, criminal justice system leaders said bond court judges had worsened the overcrowding by a change in the conditions of electronic monitoring. Beginning in November 2012, the judges were requiring defendants to pay money bail before being eligible for release on EM. According to the Sheriff's Office, the new practice essentially stopped EM releases and caused the number of defendants on EM to drop to 832 in March 2013 from 1,270 in September 2012.⁷⁴

Chief Judge Evans has not explained the change in practice, but it occurred shortly after he complained at a County Board budget hearing that the Board President had refused his request for 25 additional pretrial services officers.⁷⁵ The Chief Judge said at the hearing that increased staffing would improve the quality of information provided to bond court judges and make them more comfortable about releasing defendants. Chief Judge Evans also said the Sheriff was at fault for not using his own administrative authority to release more detainees from the jail on electronic monitoring, a practice allowed under the consent decree when the jail neared capacity.⁷⁶

In a document filed in the consent decree case in May 2013, the Board President said criminal justice system leaders had failed to take steps to reduce the overcrowding for political reasons. The Board President stated that the State's Attorney, Chief Judge and Sheriff were "avoiding responsibility for releasing inmates in order to evade blame if a released inmate subsequently engages in further alleged misconduct."⁷⁷

Intervention by the Illinois Supreme Court

In September 2013 Board President Preckwinkle sought help from the Illinois Supreme Court. In a letter to Supreme Court justices, the Board President cited deficiencies in Cook County's criminal case processing times, pretrial services and use of probation and asked the Court to convene a reform commission to oversee an audit and seek data for release to the public. The letter referred to other jurisdictions, including Pennsylvania and New York City, where state high courts had stepped in to resolve court system problems.⁷⁸

⁷⁴ *United States v. Cook County, Ill.*, No. 10-2946 (N.D. Ill filed May 13, 2010). See *Defendant, Thomas J. Dart, Sheriff of Cook County's Position Paper Regarding Electronic Monitoring*, March 8, 2013, pp. 1-3. In February 2013 bond court judges began instructing the Department of Corrections that defendants were permitted to be released under the Sheriff's authority.

⁷⁵ Cook County Board of Commissioners, meeting of the Finance Committee, October 30, 2012, http://cook-county.granicus.com/MediaPlayer.php?view_id=2&clip_id=388 (last accessed on November 13, 2017).

⁷⁶ Hal Dardick, "For first time in years, county jail near capacity; More electronic monitoring needed, Cook officials say," *Chicago Tribune*, March 3, 2013.

⁷⁷ *United States v. Cook County, Ill.*, No. 10-2946 (N.D. Ill filed May 13, 2010). See *Cook County Board President Toni Preckwinkle's Petition for Appointment of Special State's Attorney Counsel to Represent Her in This Matter*, May 14, 2013, p. 6.

⁷⁸ Cook County Board President Toni Preckwinkle Letter to Illinois Supreme Court Chief Justice Thomas Kilbride, September 12, 2013, p. 5.

The Illinois Supreme Court responded by calling an unprecedented meeting between its seven members and the major Cook County criminal justice leaders—the Board President, Sheriff, Chief Judge, State’s Attorney, Public Defender and Circuit Court Clerk. The November 2013 meeting focused on pretrial issues and specifically on achieving collaboration among the Cook County participants.⁷⁹

This event was followed by regular meetings of what came to be known as the Stakeholders Committee under the leadership of retired Illinois Chief Justice Ben Miller and retired U.S. District Court Judge David Coar.⁸⁰ A working group of key staff members at each of the stakeholder agencies was set up to deal with specific issues. The Supreme Court also organized a tour for the criminal justice leaders of bond court systems in Washington, D.C. and Montgomery County, Maryland, which rely less on cash bail.⁸¹

In March 2014 the Supreme Court’s administrative arm issued a detailed report on Cook County’s pretrial services unit, the only major public study to date of an Illinois county’s court operations.⁸² The report by the Administrative Office of the Illinois Courts (AOIC) was highly critical, finding that the pretrial services unit was not fulfilling its mission of reducing the number of low-risk offenders in jail. The report concluded that the information provided by pretrial services officers was generally ignored by bond court judges because it was unverified and incomplete.⁸³ According to the report, bail decisions varied widely from one judge to another, and some judges doubted that their colleagues had adequate qualifications for the job.⁸⁴

The 64-page report contained 40 recommendations, including better sharing of information among criminal justice agencies; bond court scheduling changes to allow more time for collection and verification of information by pretrial services officers; improved training of judges; and development of comprehensive measurements of bond court performance and effectiveness. One of the most sweeping recommendations was that “pretrial management and the judiciary should consider establishing clear and appropriate criteria for pretrial release recommendations.”⁸⁵ In a news release in May 2016, the Supreme Court stated that all of the recommendations had been addressed if not completed.⁸⁶

⁷⁹ Illinois Supreme Court, “Statement from the Illinois Supreme Court on Cook County Justice Stakeholders Meeting,” *news release*, November 14, 2013.

⁸⁰ Justice Miller’s involvement ended in 2016.

⁸¹ Illinois Supreme Court, “Principals in Cook County Justice System Continue Systemic Review of Pretrial Operations,” *news release*, July 14, 2014.

⁸² Illinois Supreme Court, Administrative Office of the Illinois Courts, *Circuit Court of Cook County Pretrial Operational Review*, March 2014.

⁸³ Illinois Supreme Court, Administrative Office of the Illinois Courts, *Circuit Court of Cook County Pretrial Operational Review*, March 2014, p. 43.

⁸⁴ Illinois Supreme Court, Administrative Office of the Illinois Courts, *Circuit Court of Cook County Pretrial Operational Review*, March 2014, pp. 44-45.

⁸⁵ Illinois Supreme Court, Administrative Office of the Illinois Courts, *Circuit Court of Cook County Pretrial Operational Review*, March 2014, p. 26. The Illinois Supreme Court adopted its own statewide policy for pretrial services on April 28, 2017.

⁸⁶ Illinois Supreme Court, “Illinois Supreme Court Announcement on Recommendations to Advance Pretrial Services in Cook County,” *news release*, May 4, 2016.

Recent Bond Court Changes and Related Developments

Available data suggest that the Supreme Court's intervention had an immediate effect on bond court orders, although the link cannot be proven conclusively.⁸⁷ The share of defendants ordered to be released without having to pay money upfront increased from approximately 13% to 47% through May 2017.⁸⁸ Monetary orders fell from 65% of the total in early 2013 to under 50% since 2014. Shortly before the Board President asked for the high court's assistance, the Chief Judge introduced a new bond court order that explicitly allowed defendants to be released on EM without first making cash deposits.

The general jail population declined since the intervention by about 30% from about 10,200 in August 2013 to approximately 7,100 in August 2017.⁸⁹ Increased use of electronic monitoring undoubtedly played a role, but other factors are discussed in the next section of this report.

After the Supreme Court stepped in, the Chief Judge appointed new leadership for the pretrial services unit, which is a division of the Probation Department and had not had its own full-time chief.⁹⁰ The Chief Judge announced a new schedule for Central Bond Court, with the starting time delayed by an hour and a half to give pretrial services officers more time to gather information about defendants.⁹¹

Recent technological improvements have also facilitated pretrial work. Pretrial services officers now have laptop computers in the area where they interview defendants, providing electronic access to defendants' arrest and criminal history information.⁹² Previously, all verifications had to take place after the officers returned to their desks, which left limited time to complete verifications before the start of bond court.⁹³ The computers are also used to collect pretrial interview information, which was previously gathered manually, and to process risk assessment scores, which are designed to measure the risk of releasing a defendant prior to trial.

In July 2015, pretrial services officers began providing Central Bond Court judges with risk assessment scores generated by a new formula called the Public Safety Assessment (PSA). The PSA produces two scores for each defendant: one for the likelihood of failing to appear in court

⁸⁷ Data issues are discussed in the next section of this report.

⁸⁸ Civic Federation calculations based on Clerk of the Cook County Circuit Court, *Central Bond Court Disposition Audit*, January 2011 to May 2017. The percentages represent monthly averages before and after August 2013. Cases dismissed at the request of prosecutors were not included in the calculations. Inconsistencies over time in the data are discussed later in this report.

⁸⁹ Cook County Sheriff's Office, *Sheriff's In-Custody Daily County Report*, August 26, 2013; *Sheriff's Daily Report*, August 31, 2017

⁹⁰ Office of the Chief Judge, Circuit Court of Cook County, "Chief Judge Evans assembles new leadership team for court's Pretrial Services Division," *news release*, July 8, 2014.

⁹¹ Office of the Chief Judge, Circuit Court of Cook County, "New schedule for Central Bond Court at 26th and California," *news release*, October 30, 2014.

⁹² Illinois Supreme Court, Administrative Office of the Illinois Courts, *Circuit Court of Cook County Pretrial Services Operational Review Recommendations Progress Report*, March 16, 2016.

⁹³ Illinois Supreme Court, Administrative Office of the Illinois Courts, *Circuit Court of Cook County Pretrial Operational Review*, March 2014, p. 42.

and the other for the likelihood of committing a crime before trial.⁹⁴ The formula also flags defendants deemed likely to commit a violent crime. In March 2016, bond court judges started to receive release recommendations associated with the PSA scores, as well as the scores themselves. The framework for determining the recommendations is shown in Appendix A, Exhibit 2. By September 2016 the system had been implemented in all Cook County courthouses.⁹⁵

The PSA, which was developed by the Laura and John Arnold Foundation, was chosen to replace a previous risk assessment formula used in Cook County because it was validated using data from cases across the county. However, it is unclear to what extent bond court judges have used risk assessment tools or what effect the new formula has had on bail decisions.⁹⁶ Data related to the PSA is reviewed in the next section of this report.

In addition to electronic streamlining of the pretrial intake process, the County has taken several steps to update the technology systems used by the criminal justice agencies and to improve data sharing between those agencies. In December 2015 the Cook County Board of Commissioners approved a \$2.3 million contract to implement an Enterprise Service Bus, or “data bus,” to allow electronic exchanges between all of the County criminal justice agencies.⁹⁷ The data bus will allow for automated court reminders to notify defendants of their court dates to reduce the rate of failure to appear in court. Voice reminders are scheduled to go live in November 2017 and text reminders will follow in 2018.⁹⁸ Electronic information exchanges between the Clerk of the Circuit Court and Sheriff and between the Clerk of the Circuit Court and the Public Defender are expected to take effect by the end of 2017. Additionally, the Clerk of the Circuit Court received approval from the Board of Commissioners for a \$36.4 million contract for a new case management system.⁹⁹

In May 2015 Cook County was one of 20 jurisdictions selected to receive \$150,000 planning grants as part of the MacArthur Foundation’s five-year, \$100 million Safety and Justice Challenge. The grants were to be used to develop plans to safely reduce the number of low level non-violent offenders in jail—a goal all of the criminal justice leaders in Cook County had agreed on.¹⁰⁰

But the County was not among the 11 governments chosen in April 2016 to receive grants of between \$1.5 million to \$3.5 million each to implement their plans over two years. In a speech in 2016, Justice Burke said MacArthur representatives told her the County’s proposal was rejected

⁹⁴ Laura and John Arnold Foundation website, <http://www.arnoldfoundation.org/initiative/criminal-justice/crime-prevention/public-safety-assessment/> (last accessed on November 13, 2017). The PSA uses nine factors to generate the risk assessment scores. For more information see Appendix A, Exhibit 1.

⁹⁵ Communication between the Civic Federation and the Chief Judge’s Office, October 26, 2017.

⁹⁶ Cook County Sheriff’s Office, Sheriff’s Justice Institute, *Central Bond Court Report*, April 2016, pp. 7-11.

⁹⁷ File number 16-0027 approved by the Cook County Board of Commissioners on December 16, 2015

⁹⁸ Cook County Bureau of Technology, *Enterprise Service Bus Program: Integrated Justice “Bus” Initiatives, Quarterly Report: Q2 2017*, presented to the Cook County Board of Commissioners Technology and Innovation Committee on September 12, 2017.

⁹⁹ Cook County Board of Commissioners, Substitute to File 17-1491, Proposed Contract approved by the Cook County Board of Commissioners on April 12, 2017.

¹⁰⁰ Office of the Chief Judge, Cook County Circuit Court, “Cook County Wins MacArthur Foundation Support to Reduce the Use of Jails,” *news release*, May 27, 2015.

because of concerns that the stakeholders were not aligned and lacked the political will to make significant reforms.¹⁰¹

After continuing to work with MacArthur over the past year, Cook County won a two-year, \$1.85 million Safety and Justice Challenge grant on October 4, 2017. The MacArthur grant is expected to support ten new positions, including one full-time and six part-time data analysts to assess ongoing projects such as automated reminders of future court dates.¹⁰² The grant will also fund a new pilot program in which the Chicago Police Department and Cook County's public health system will work to divert non-violent offenders with mental health and substance abuse problems from the criminal justice system and instead place them in treatment programs.

Other recent initiatives include Sheriff Dart's "Rocket Docket," a program designed to get low level offenders out of jail more quickly. The program started in 2015 with minor retail theft and criminal trespass charges and expanded in 2016 to minor traffic offenses and small volume drug cases.¹⁰³ If the cases are not resolved in a month, then defendants are released on their own recognizance or on electronic monitoring.

State's Attorney Kim Foxx took office in December 2016 after running on a platform of criminal justice reform.¹⁰⁴ Three months later, she stated that her office would no longer oppose release of detainees held for long periods for non-violent offenses due to their inability to make cash deposits of \$1,000 or less.¹⁰⁵ In June 2017 the State's Attorney's Office announced that it would begin recommending recognizance bonds for individuals charged with misdemeanors and for low level felony defendants with no violent criminal history.¹⁰⁶

Despite these initiatives, civil rights advocates have continued to criticize the prevalence of money bail in Cook County. In October 2016 a proposed class action lawsuit was filed in Cook County Circuit Court, alleging that requiring the payment of unaffordable amounts of money to stay out of jail violates Illinois law and defendants' federal and State constitutional rights.¹⁰⁷ The lawsuit, which named five judges, was filed on behalf of two individuals who were arrested on theft charges and held in the jail because they could not afford to post bonds of \$1,000 and \$5,000. The advocacy group Civil Rights Corp, which is involved in the Cook County case, has brought similar suits across the country.¹⁰⁸

¹⁰¹ Illinois Supreme Court Justice Anne Burke, Speech to the Commercial Club of Chicago, June 23, 2016, p. 45. A MacArthur Foundation representative confirmed these concerns in communications with the Civic Federation.

¹⁰² Office of the Chief Judge, Circuit Court of Cook County, "MacArthur Foundation Safety and Justice Challenge awards \$1.85M grant to Cook County justice system," *news release*, October 4, 2017.

¹⁰³ Cook County Sheriff Thomas J. Dart, "Governor Signs Sheriff Dart's 'Rocket Docket' Legislation," *news release*, August 8, 2016.

¹⁰⁴ Nick Blumberg, "Kim Foxx: Cook County State's Attorney Candidate," *Chicago Tonight*, WTTW Channel 11, October 7, 2016.

¹⁰⁵ Cook County State's Attorney, "State's Attorney Foxx Announces New Bond Reform Initiative," *news release*, March 1, 2017.

¹⁰⁶ Cook County State's Attorney, "State's Attorney Foxx Announces Major Bond Reform," *news release*, June 12, 2017.

¹⁰⁷ *Zachary Robinson and Michael Lewis, et al. v. Leroy Martin Jr. et al.*, No. 2016 CH 13587 (Circuit Court of Cook County filed October 14, 2016).

¹⁰⁸ Civil Rights Corps website, <http://www.civilrightscorps.org/ending-wealth-based-pretrial-detention> (last accessed on November 13, 2017).

Former U.S. Attorney General Eric Holder, a prominent critic of cash bail, wrote a memorandum on July 12, 2017 for Cook County Public Defender Amy Campanelli that concluded it was “highly likely” that the County’s wealth-based bail practices violated State law and the U.S. and Illinois constitutions.¹⁰⁹ The Public Defender subsequently called on the Illinois Supreme Court to require State judges to set affordable money bail amounts.¹¹⁰

On July 17, 2017, Chief Judge Evans announced a new policy on money bail that is intended to ensure that defendants are not kept in jail solely because they cannot afford to pay money bail.¹¹¹ The General Order states that cash bail is appropriate only when a defendant can safely be released, but monetary conditions are necessary to ensure appearance in court.¹¹² In such cases, the order requires judges to ask about the defendant’s ability to pay a bail amount and make a finding on the record that the individual “has the present ability to pay the amount necessary” to secure release. Defendants who remain in jail after seven days due to inability to post bond will be granted new hearings.

As part of the new policy, the Chief Judge replaced all of the judges in Central Bond Court and turned it into a new division called the Pretrial Division with its own presiding judge to focus on bond court issues.¹¹³ Bond court continues to be separate from the Circuit Court’s criminal division, where defendants’ cases are actually tried.

The new bond court policy took effect on September 18, 2017 for felony cases and will apply to all cases on January 1, 2018. Under the policy, if defendants pose a public safety risk or are likely to skip court hearings unless they are detained, judges are supposed to rule that bail is not appropriate instead of using high money bail to effectively require detention.

A news release announcing the policy stated that the Chief Judge’s Office plans to review the results in a year to determine the impact on the size and makeup of the jail population, defendants’ appearance at court hearings and whether individuals commit crimes while their cases are pending.¹¹⁴ The Chief Judge has said that data analysts funded by the new MacArthur grant would study the impact of the bond court order and that the analysis would be distributed to the County’s criminal justice leaders.¹¹⁵ However, it remains to be seen what data will be made available to the public.

¹⁰⁹ Eric H. Holder, Jr.’s Memorandum to Cook County Public Defender Amy P. Campanelli on Cook County’s Wealth-Based Pretrial System, July 12, 2017, p. 7.

¹¹⁰ Andy Grimm, “County officials call for state Supreme Court to act on bond system,” *Chicago Sun-Times*, August 1, 2017.

¹¹¹ Office of the Chief Judge, Circuit Court of Cook County, “Evans changes cash-bail process for more pretrial release,” *news release*, July 17, 2017.

¹¹² Office of the Chief Judge, Circuit Court of Cook County, *General Order No. 18.8A – Procedures for Bail Hearings and Pretrial Release*, July 17, 2017.

¹¹³ Office of the Chief Judge, Circuit Court of Cook County, “Evans names judges to serve in Pretrial Division,” *news release*, September 15, 2017.

¹¹⁴ Office of the Chief Judge, Circuit Court of Cook County, “Evans changes cash-bail process for more pretrial release,” *news release*, July 17, 2017.

¹¹⁵ Statement by Timothy C. Evans, Chief Judge of the Circuit Court of Cook County, at a press conference on October 4, 2017 on the MacArthur Safety and Justice Challenge grant.

Due to the new policy and expected increase in the number of released defendants, the Chief Judge's Office sought 99 additional full-time equivalent positions to assess and monitor defendants in FY2018.¹¹⁶ The proposed staffing would cost an additional \$6 million and represent an increase of about 43% from \$8 million currently devoted to those functions.¹¹⁷ The Board President's proposed budget, released on October 5, included only 15 new positions in the Pretrial Services unit.¹¹⁸ Even this proposal may face scrutiny given the repeal of the sweetened beverage tax and resulting \$200 million budget shortfall.¹¹⁹

After the bond court changes were announced, the judges named in the bail lawsuit asked that the suit be dismissed because the Chief Judge's order had satisfied the plaintiffs' demands.¹²⁰ But plaintiffs' lawyers have argued against dismissal, stating that the order exceeds the Chief Judge's administrative authority and that judges may not follow the order. Court observers maintain that judges are still ordering defendants to pay amounts they cannot afford.¹²¹

¹¹⁶ Communication between the Civic Federation and the Office of the Chief Judge, Circuit Court of Cook County, October 13, 2017.

¹¹⁷ Statement by Timothy C. Evans, Chief Judge of the Circuit Court of Cook County, at Cook County Board of Commissioners Finance Committee Meeting, October 27, 2017.

¹¹⁸ Cook County FY2018 Executive Budget Recommendation, Volume 2, p. U-21; Cook County FY2017 Executive Budget Recommendation, Volume 2, p. V-20.

¹¹⁹ Hal Dardick, "With pop tax repealed, Preckwinkle says up to commissioners to fix budget," Chicago Tribune, October 12, 2017.

¹²⁰ For more information, see Civic Federation blog, August 18, 2017, <https://www.civicfed.org/civic-federation/blog/cook-county-judges-seek-dismissal-money-bail-lawsuit> (last accessed on November 13, 2017).

¹²¹ *Zachary Robinson and Michael Lewis, et al. v. Leroy Martin Jr. et al.*, No. 2016 CH 13587 (Circuit Court of Cook County filed October 14, 2016). See Plaintiff's Supplemental Brief in Opposition to Defendants' Supplemental 2-619 Motion to Dismiss for Mootness, filed October 16, 2017.

DATA

There is little publicly available, official information on Cook County's bond court or the jail population. While academic and government researchers have produced intermittent studies,¹²² the only official data easily accessible by the public come from the Set Targets – Achieve Results (STAR) reports, an online performance measurement tool implemented by Board President Preckwinkle in 2011.¹²³

The STAR reports are not always updated promptly and have only quarterly data.¹²⁴ For this report, the Civic Federation has supplemented the STAR data with additional information provided by County officials without filing a formal request under the Illinois Freedom of Information Act, which does not apply to the courts.

Several organizations are attempting to obtain data from officials and make it available to the public. Since these efforts have not yet been successful, advocacy groups have resorted to performing observations of bond court and have produced reports detailing their findings.¹²⁵

Bond Court Data

The only readily available official data on bond court come from the STAR Reports. Bond court dispositions are reported quarterly in the STAR reports under the Justice Advisory Council, which is a unit of the Board President's Office. "Dispositions" come in the form of bond orders that "dispose" of the defendant's case before the bond court judge. Although the Chief Judge of the Circuit Court has not participated in STAR directly, Judge Evans authorized the Clerk of the Circuit Court to share certain information with the Justice Advisory Council.¹²⁶ The only data displayed is the quarterly percentage of Bond Court orders that result in I-Bonds or electronic monitoring.¹²⁷

¹²² Christine A. Devitt et al., Illinois Criminal Justice Information Authority, *The Pretrial Process in Cook County: An Analysis of Bond Decisions Made in Felony Cases During 1982-83*, August 1987; U.S. Bureau of Justice Assistance and American University, *An Assessment of the Felony Case Process in Cook County, Illinois and its Impact on Jail Crowding*, November 1989; Illinois Criminal Justice Information Authority, *Pretrial Release and Crime in Cook County*, August 1992; U.S. Bureau of Justice Assistance and American University, *Review of the Cook County Felony Case Process and its Impact on the Jail Population*, September 26, 2005; David E. Olson et al., Cook County Sheriff's Reentry Council Quarterly Update, September 2009 to March 2013; Cook County Sheriff's Office, Sheriff's Justice Institute, *Central Bond Court Report*, April 2016.

¹²³ Civic Federation, "Cook County Produces STAR Performance Management Report," Civic Federation Blog, July 20, 2011, <https://www.civiced.org/civic-federation/blog/cook-county-produces-star-performance-management-report> (last accessed on November 13, 2017).

¹²⁴ For example, the most recent STAR report information about the jail population and bond court orders is from the fourth quarter of FY2016, which ended on November 30, 2016. See <https://performance.cookcountyl.gov/reports/Justice-Advisory-Council> (last accessed on November 13, 2017). Year-to-date figures from the first three quarters of FY2017 are printed on page 22 of the Cook County FY2018 Executive Budget Recommendation, Volume 1, issued on October 5, 2017.

¹²⁵ League of Women Voters of Cook County, *Pretrial Systems: Report of the Criminal Justice Interest Group*, December 16, 2015; Community Renewal Society on Behalf of the Reclaim Campaign, *Cook County Bond Court Watching Project: Final Report*, February 2016, Injustice Watch staff, "Jail Roulette: Cook County's arbitrary bond court system," *Injustice Watch*, November 29, 2016.

¹²⁶ Chief Judge Timothy Evans, letter to Circuit Court Clerk Dorothy Brown, September 27, 2011. The Chief Judge's Office has recently begun to post performance metrics on the Pretrial Services unit on its website.

¹²⁷ In 2015 the Civic Federation requested that the Board President's Office post more detailed monthly bond court data on the Cook County Data Portal. In September 2015 monthly bond court orders by type were posted, covering

The Civic Federation has also obtained data on bond court orders in the form of monthly reports entitled “Central Bond Court Disposition Audit” from the Board President’s Office that cover the period from January 2011 through May 2017, with the exception of five missing months throughout the period. The disposition audits were prepared by the Clerk’s Office as the raw data for the STAR Reports.

The Civic Federation sought data for the five missing months of disposition audits through a formal process described on the Clerk of the Circuit Court’s website.¹²⁸ The Clerk of the Circuit Court does not share any data of which it is custodian without authorization from the Chief Judge. A request must be made in writing to the Chief Judge, who may then send a letter instructing the Clerk to provide the requested information if the request is approved.

The Civic Federation sent its request in June 2017. Both the Chief Judge and the Clerk of the Circuit Court sent notifications in August that the request had been approved and was in process. However, none of the data requested has been received as of the publication date of this report.

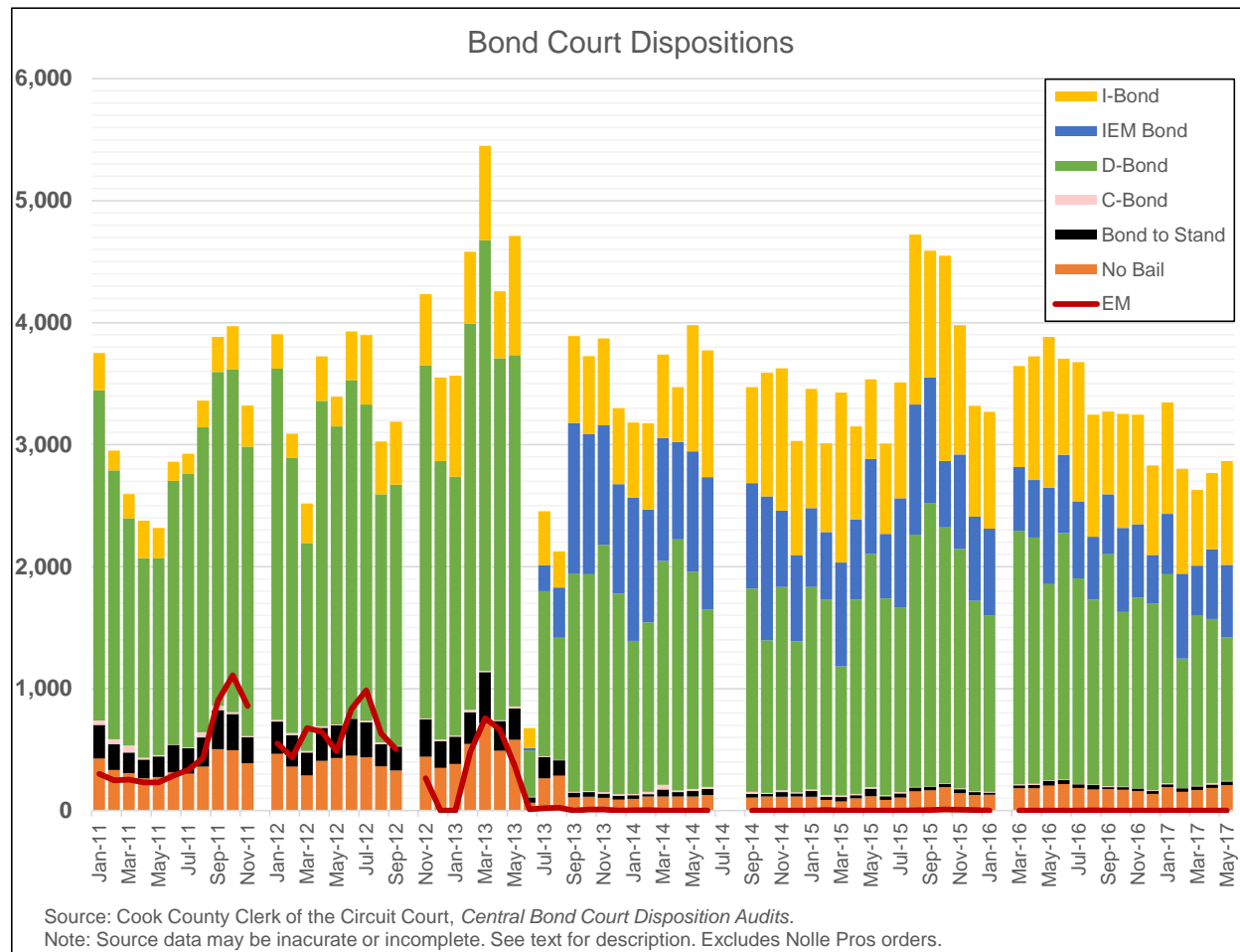
The audits contain daily tallies of bond court orders by type, along with totals. An example can be seen in Appendix B, Exhibit 3. The audits also have columns listing the number of defendants released on D- or C-Bonds and qualifying or failing to qualify for electronic monitoring. However, these defendants could have received these bond orders on any prior day, so the reports do not give an accurate percentage of defendants that actually achieve release for any type of bond order. Nor is there any information on the number of defendants with IEM orders who bail out with cash.

While the disposition audits are labeled as if they only contain data from Central Bond Court, the Clerk’s Office has said that currently the numbers reflect the dispositions of all bond courts in Cook County. When these other courts were added to the reports by the Circuit Court remains unknown.

the period of January 2012 through August 2015. The data has not been updated on the portal since that time. In several months there are significant discrepancies between the numbers reported in the disposition audits and the numbers reported on the Cook County Data Portal. Neither the President’s Office nor the Clerk’s Office has explained the discrepancies. <https://performance.cookcountyil.gov/Public-Safety/Central-Bond-Court-Orders/3daz-xsz8>, (last accessed on November 13, 2017).

¹²⁸ Clerk of the Circuit Court, “Special Request for Electronic Records,” <http://www.cookcountyclerkofcourt.org/?section=RecArchivePage&RecArchivePage=6030> (last accessed on November 14, 2017).

With all of these caveats, the following chart tabulates the bond orders by type in each of the available disposition audits.



Electronic monitoring orders are shown as a separate line graph, because the reports do not specify which other type of bond order they accompany. The data show that EM orders were completely suspended from mid-November 2012 to mid-February 2013, when judges were requiring defendants to pay money bail before being eligible for release on EM.¹²⁹ The line graph accordingly dips to zero during two of these months in which there were zero EM orders. This occurred shortly after the Cook County Board President denied the Chief Judge’s budgetary request for more pretrial services officers. The Chief Judge’s Office declined to answer questions about this period because the data were provided by the Clerk’s Office, even though the Clerk’s data are based on bond court activity.¹³⁰

However, the data also show a shift in policy between June and September 2013. Prior to that month, electronic monitoring was an additional condition attached to I-, D- or C-Bonds. The dispositions reports note the total number of EM orders, but do not specify which type of bond they accompany. Accordingly, they are displayed in the chart as a separate line that does not

¹²⁹ See p. 15 of this report.

¹³⁰ Communication between the Civic Federation and the Chief Judge’s Office, October 13, 2017.

contribute to the disposition total. Beginning in June 2013, the Court created the IEM category (shown above in blue), a distinct order in which the defendant can choose to go on electronic monitoring or to pay a D-Bond amount in lieu of EM. However, the original EM category still exists and appears to be used in a small number of cases when electronic monitoring is imposed as an additional condition on a D-Bond order. The data show just six instances of this in 2016, and Civic Federation observed two instances during a one-day observation of bond court in August 2017.

Total bond orders were unusually low during June, July and August 2013 when the new IEM category was being introduced. Then in September 2013, the month of the Board President's letter to the Illinois Supreme Court, the number of I and IEM orders rose dramatically. From that month through May 2017 I and IEM orders together averaged nearly half of all orders.

Other information would be useful in assessing bond court policy, such as the levels of D- and C-Bonds set by the Court, how long those defendants are jailed, failure to appear and re-arrest rates for those defendants who are released and a breakdown of bond orders by charge or by crime type, such as violent versus non-violent or felony versus misdemeanor.

The order is only one step in determining whether a defendant will actually be released prior to trial. The Civic Federation requested additional data from the Chief Judge on three occasions in September 2016, March 2017 and August 2017, including:

- Trend data on the levels of D-Bonds;
- A breakdown of bond orders by crime type;
- Actual release rates of defendants;
- Information on evaluating the PSA; and
- Budget and staffing information.

In October 2017, thirteen months after the initial request, the Chief Judge's office responded to some of these questions.

The statistics provided by the Chief Judge's Office and summarized in an October 2016 press release suggest that the major change in bond court orders occurred not in September 2013 but two years later, with the introduction of the Public Safety Assessment.¹³¹ The risk tool was implemented for felony cases in Central Bond Court beginning in July 2015 and in suburban courthouses by March 2016.

The press release was issued after a report by the Cook County Sheriff's Justice Institute reported that its observations of Central Bond Court in early 2016 showed that judges used the recommendations of the PSA in only 15% of cases and that the composition of orders varied widely depending on which judge presided.¹³² However, the six week observation recorded only one week during which the PSA was fully implemented and its recommendations were being announced during bond court proceedings.

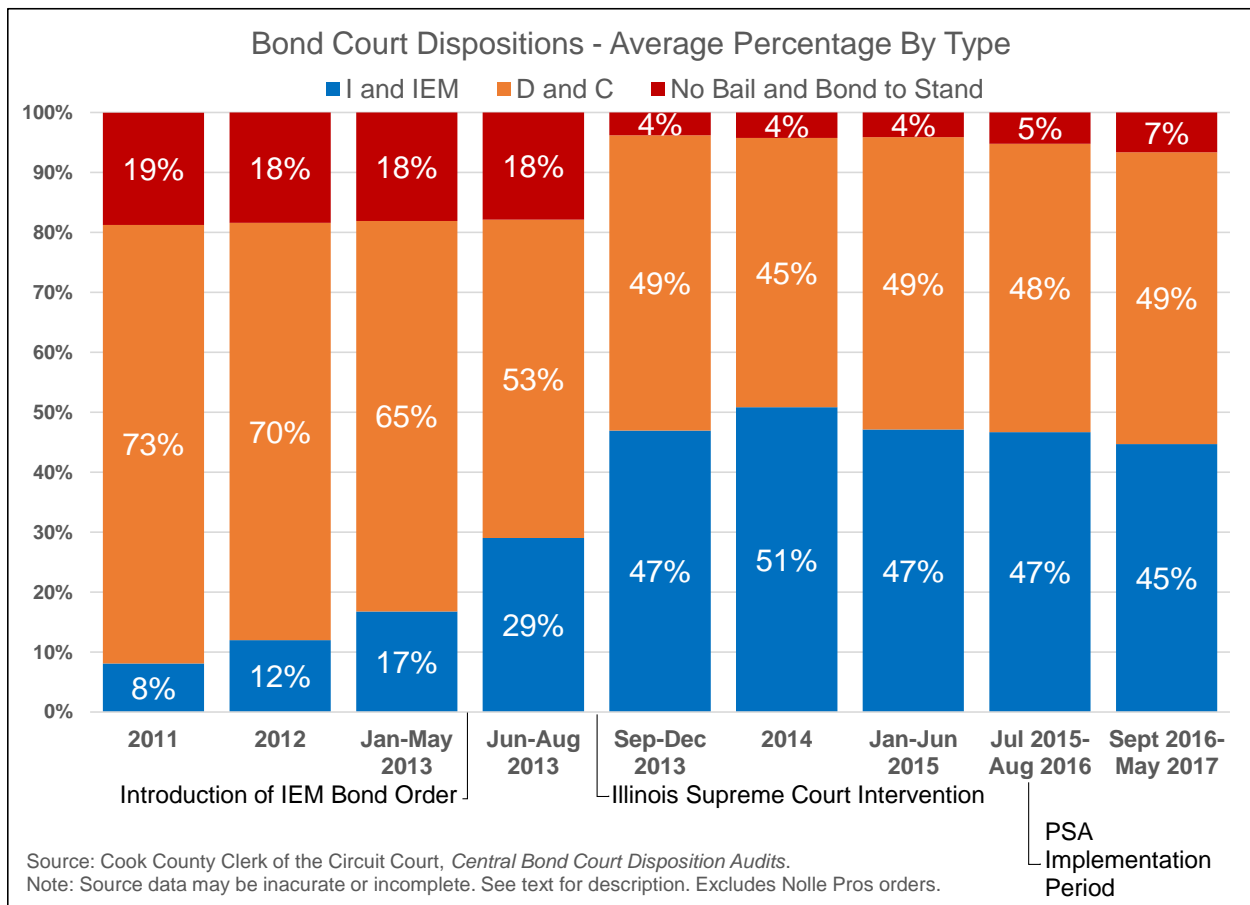
¹³¹ Office of the Chief Judge, Circuit Court of Cook County, "Statement from Chief Judge Timothy C. Evans," *news release*, October 24, 2016.

¹³² Cook County Sheriff's Office, Sheriff's Justice Institute, *Central Bond Court Report*, April 2016, p. 8.

The Chief Judge’s Office maintains that changes in bond court orders following introduction of the PSA demonstrate that judges are using the tool. In response to the Civic Federation’s data request, the Chief Judge’s office stated that it had compared the months of April, May, and June 2015 with April and May of 2016. In the prior period, there were 5,415 bond orders issued to defendants with non-violent, non-weapons charges, of which 2,939 (54%) were I- or IEM-bonds and 2,346 (43%) were D-bonds. In the later period following PSA implementation there were 2,117 non-violent, non-weapons orders, of which 1,425 (67%) were I- or IEM-bonds and 622 (29%) were D-bonds.

The Clerk’s bond court disposition audits do not contain breakdowns by violence or weapons charges. However, the Clerk’s more general data show little change in the pattern of dispositions since September 2013. Before that, monetary bond orders were 53-73% of all orders.¹³³ Since September 2013, I-Bonds and IEM orders have risen to roughly equal the number of monetary orders, at just under 50% each. Orders with the lowest likelihood of defendant release, No Bail and Bond to Stand, have also dropped in frequency and stayed low. The data show almost no change from the period just before implementation of the PSA in July 2015, through the completion of implementation in August 2016.

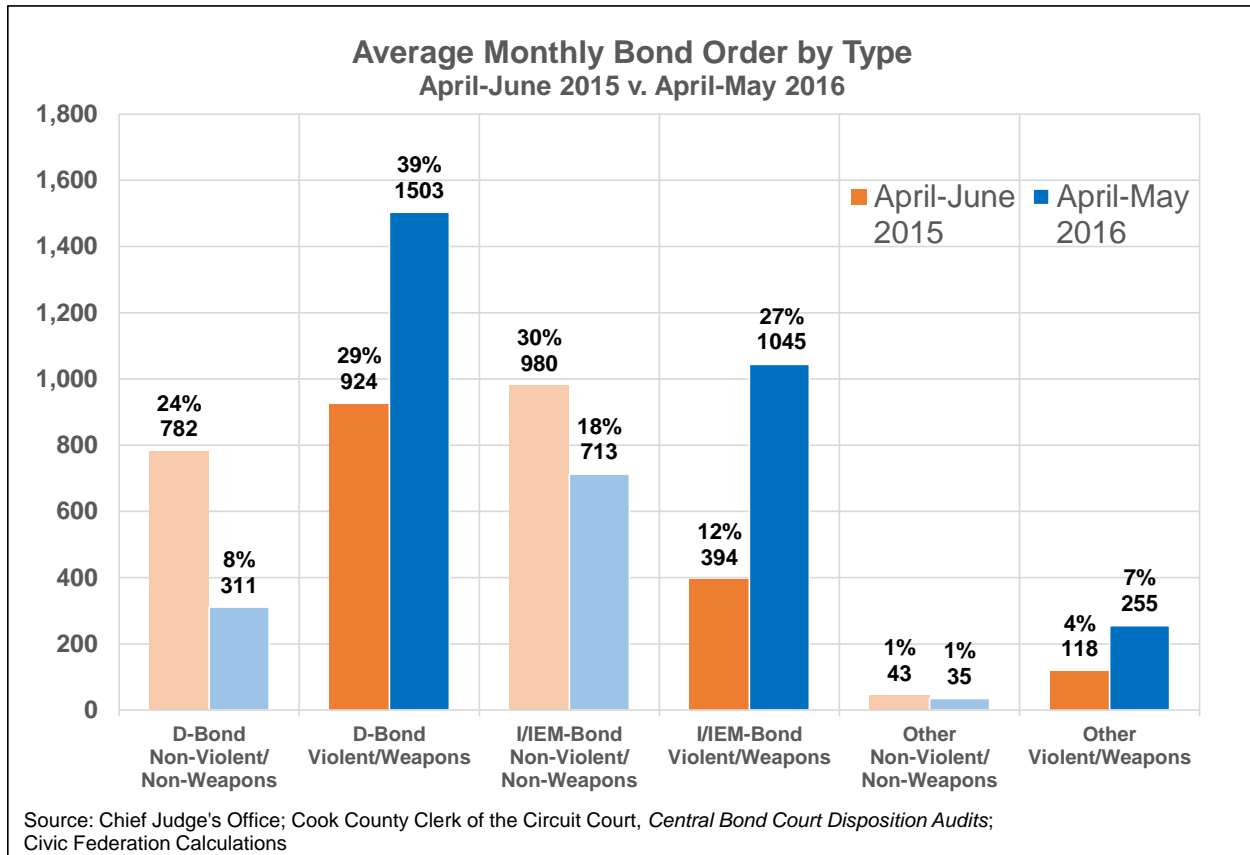
The following chart shows the bond court dispositions grouped by type.



¹³³ Excluding nolle pros orders, in which the State’s Attorney declines to proceed with prosecution.

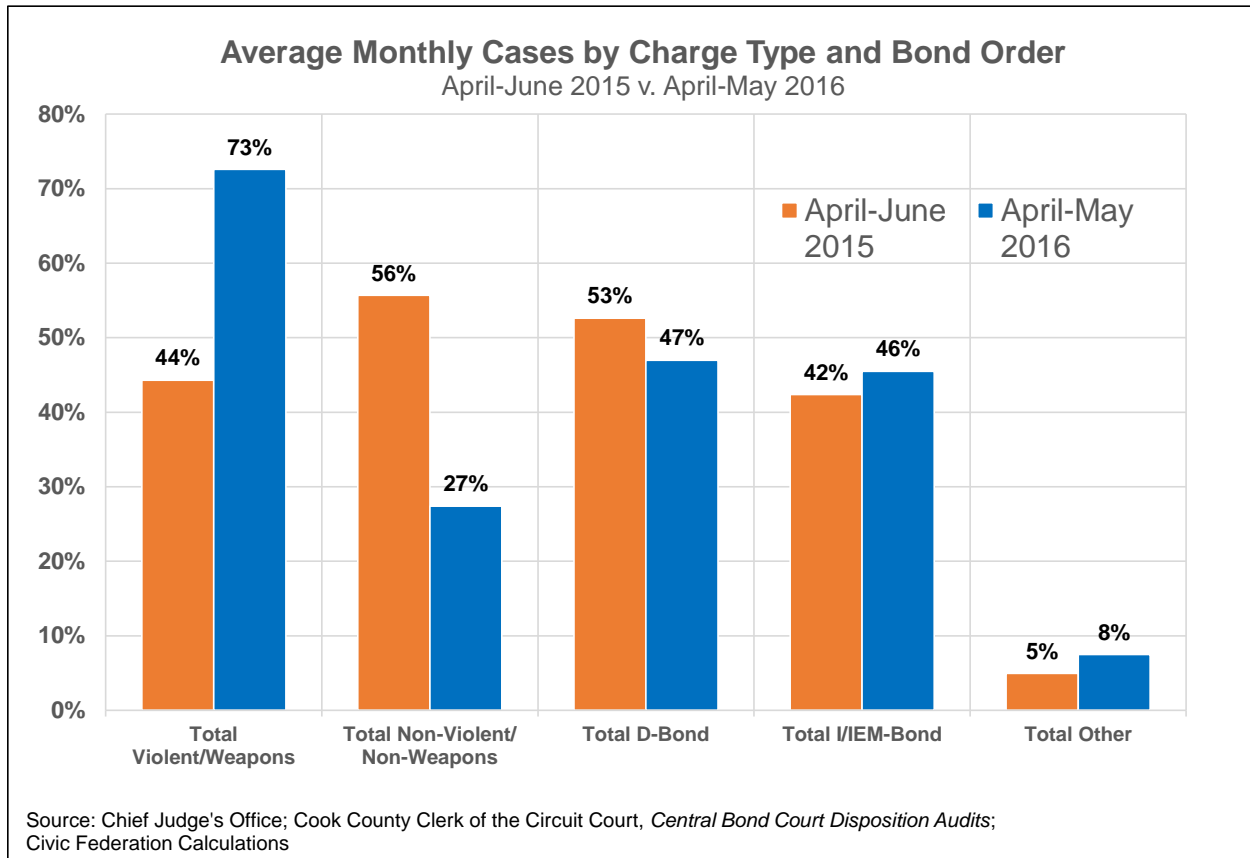
The Clerk’s data for the months cited by the Chief Judge’s Office (April to June 2015 and April to May 2016) show that the percentage of D-Bonds issued for all case types decreased from 53% in 2015 to 47% in 2016, while I-Bonds and IEM orders together increased from 42% to 46%.

Subtracting the Chief Judge’s numbers on non-violent/non-weapons defendants from the total dispositions allows analysis of bond orders for other charges as well. The following chart shows the number and composition of bond orders by charge type calculated from the Clerk’s disposition audits and the figures provided by the Chief Judge.



The first notable difference is that D-Bonds for non-violent/non-weapons defendants decreased as a percentage of all orders from 24% to 8%. D-Bonds for all other defendants increased from 29% to 39%. However, I-Bonds and IEM orders also increased for violent and/or weapons defendants from 12% of total orders to 27%, while these orders for non-violent/non-weapons defendants actually decreased, from 30% to 18%. The primary reason for this is that the proportion of defendants with non-violent/non-weapons charges decreased from 56% of cases to 27%.

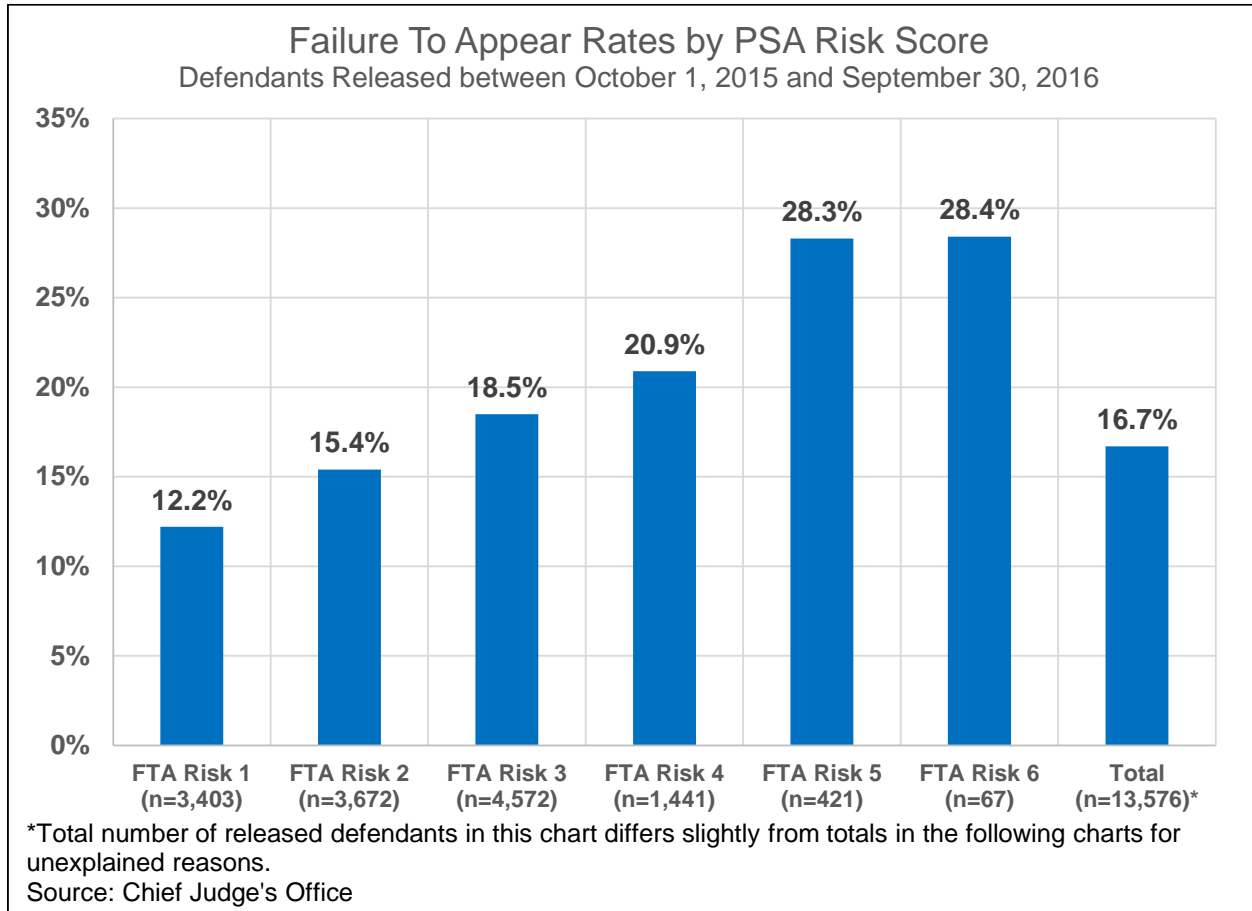
The following chart shows both the total bond orders by charge type as well as disposition category for the same two periods.



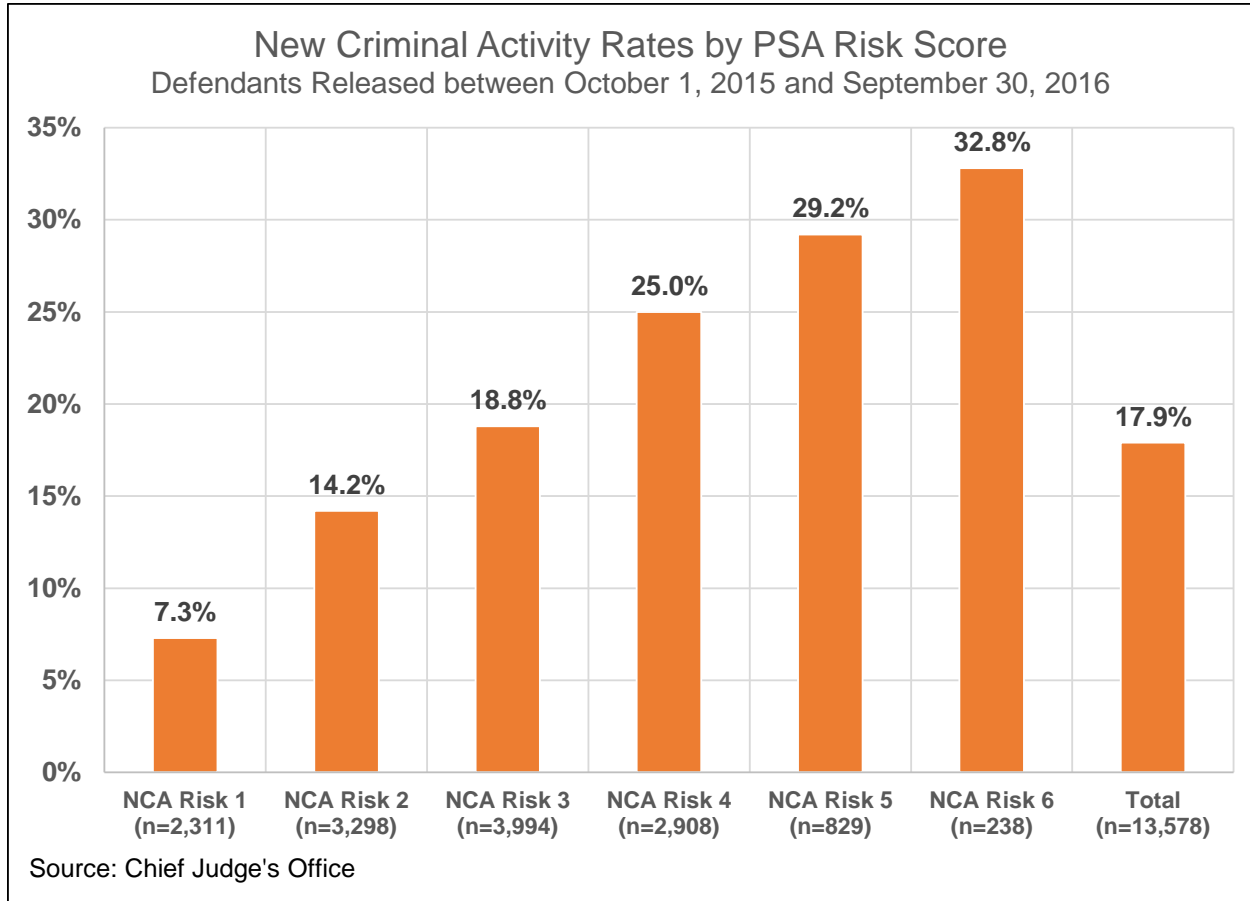
The two charts together show that while there was some change in the composition of bond orders, the most drastic change was in the type of cases appearing before the court. Focusing only on the subset of non-violent/non-weapons cases in only two short periods does not allow for a full understanding of the changes that have occurred in bond court. More complete data on bond court orders broken down by charge type would allow for a much deeper understanding of the relationship between bond court policy and the changing composition of crimes being charged.

Regardless of the factors affecting bond court orders, the success of the PSA will be measured by the share of defendants safely released before trial. In response to the Civic Federation's questions, the Chief Judge's Office provided data on how frequently defendants who were released committed new crimes or missed court dates between October 1, 2015 and September 30, 2016. The numbers cover felony defendants who received PSA scores and appear to show that the tool is working to measure individual risk.

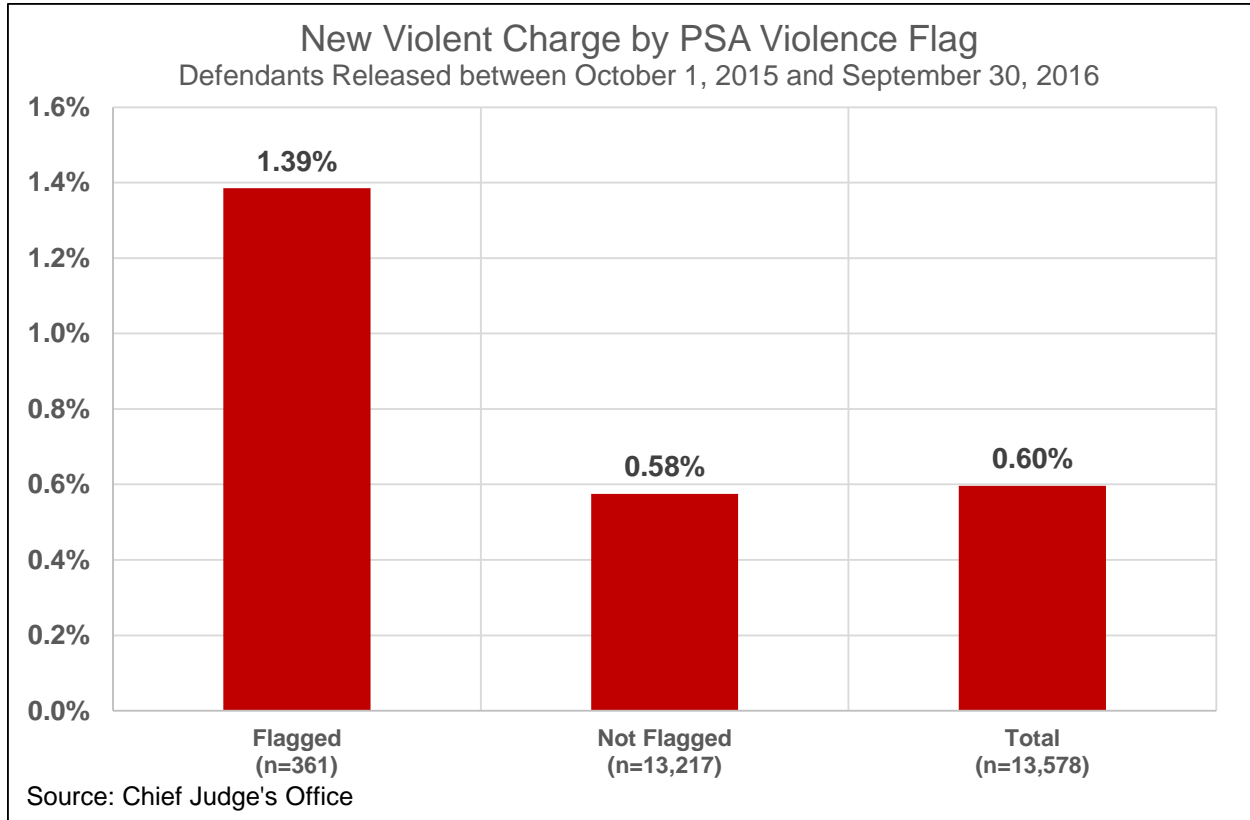
During this period, an average of 16.7% of defendants missed at least one court date within nine months of being released. The next chart groups the released defendants by their PSA scores for failure to appear, with 1 being the lowest risk and 6 the highest. For example, 28.4% of those with the highest score missed at least one court appearance, compared with 12.2% of defendants with the lowest score.



According to the Chief Judge's data, an average of 17.9% of the released defendants had at least one new criminal charge within nine months of release. The defendants are grouped by PSA scores for new criminal activity, with 32.8% in the highest risk category and 7.3% in the lowest risk group facing new felony or misdemeanor charges in Cook County.



The Chief Judge’s data also showed the defendants arrested for violent offenses while awaiting trial. The rate of arrests for new violent criminal activity averaged less than 1%, and defendants designated as higher risks for violence by the PSA were more than twice as likely to be arrested for violent crimes.



It is difficult to assess these outcomes because the Chief Judge’s Office did not provide baseline numbers for prior periods. The office had previously issued much lower statistics for a similar period, but only for the smaller group of defendants under the supervision of court officials. For example, a news release last year stated that in the first eight months of 2016 only 2.7% of defendants supervised by the Pretrial Services unit had another arrest and 2.5% missed court dates.¹³⁴

The numbers in the tables above appear to be in line with nationwide data for 2009, the most recent figures available, which show an average failure to appear rate of 17% and re-arrest rate of 16%.¹³⁵ New York City reported a citywide failure to appear rate of 11% for felonies in 2014.¹³⁶

¹³⁴ Office of the Chief Judge, Circuit Court of Cook County, “Statement from Chief Judge Timothy C. Evans,” *news release*, October 24, 2016.

¹³⁵ U.S. Bureau of Justice Statistics, *Felony Defendants in Large Urban Counties, 2009 – Statistical Tables*, December 2013, p. 21. An earlier study, covering 1990 to 2004, found a failure to appear rate 23% and re-arrest rate of 17%. See U.S. Bureau of Justice Statistics, *Pretrial Release of Felony Defendants in State Courts*, November 2007, p. 7.

¹³⁶ New York City Criminal Justice Agency, *Annual Report 2015*, December 2016, pp. 33-34.

Washington, D.C. is often cited as a model bond court system because it has virtually eliminated money bail, although it also has the unique advantage of federal funding.¹³⁷ The targets for making all scheduled court dates and remaining arrest-free are 87% and 88%, meaning failure to appear and new criminal charge rates of 13% and 12%.¹³⁸ The benchmarks were exceeded in the first nine months of FY2015, with 10% of defendants missing court appearances and 9% arrested, according to the most recent website data.

The most significant new development in Cook County bond court is the Chief Judge's July 2017 order, which is intended to eliminate money bail that defendants cannot afford.¹³⁹ The order has been in effect since September 18, 2017 for felony defendants and is scheduled to be extended to misdemeanor defendants on January 1, 2018. Early reports suggest that a far larger share of defendants are being released without having to make upfront payments since the order was implemented.¹⁴⁰

At a recent Cook County Board hearing on the FY2018 budget, the Chief Judge said I-Bonds have increased to 49.4% since the order took effect from 24.6% a year ago, while cash bonds have fallen from 46% to 22%.¹⁴¹ The use of electronic monitoring fell from 27% to 14%. The Chief Judge also indicated that just 2% of the defendants released after the new policy had new criminal activity and 3% failed to appear in court—but these statistics covered only a two week period.

Court watchers have reported that out of 350 D-Bonds issued in the first month of the order, 110 were in amounts higher than what defendants stated they could afford.¹⁴² The Chief Judge said that judges may impose higher money bail amounts if they believe that defendants can afford more than they claim.¹⁴³

As with prior statements, it is impossible to evaluate the effectiveness of policy changes in bond court without full data. The Chief Judge has said that data will be tracked and shared with Cook County stakeholders for purposes of evaluating the new order, but has not indicated that any data will be released to the public.¹⁴⁴

¹³⁷ Criminal Justice Policy Program, Harvard Law School, *Moving Beyond Money: A Primer on Bail Reform*, October 2016, p. 15.

¹³⁸ Pretrial Services Agency for the District of Columbia, https://www.psa.gov/?q=data/performance_measures (last accessed on November 13, 2017).

¹³⁹ Office of the Chief Judge, Circuit Court of Cook County, *General Order No. 18.8A – Procedures for Bail Hearings and Pretrial Release*, July 17, 2017.

¹⁴⁰ Injustice Watch staff, "New Cook County bond court rules appear to reduce, but not eliminate problems," Injustice Watch, October 25, 2017; Chicago Community Bond Fund, Facebook post, October 18, 2017.

¹⁴¹ Statement by Timothy C. Evans, Chief Judge of the Circuit Court of Cook County, at Cook County Board of Commissioners Finance Committee Meeting, October 27, 2017.

¹⁴² Chicago Community Bond Fund, Facebook post, October 18, 2017.

¹⁴³ Statement by Timothy C. Evans, Chief Judge of the Circuit Court of Cook County, at Cook County Board of Commissioners Finance Committee Meeting, October 27, 2017.

¹⁴⁴ Statement by Timothy C. Evans, Chief Judge of the Circuit Court of Cook County, at a press conference on October 4, 2017 on the MacArthur Safety and Justice Challenge grant.

Jail Population Data

For several years the Sheriff's Office had an agreement to provide data to researchers at Loyola University to produce reports on the jail population.¹⁴⁵ From 2009 through 2013 a series of reports was produced by Loyola University that included in-depth demographic analysis of jail detainees. Topics included recidivism,¹⁴⁶ the impact of length of jail stay on prison sentencing,¹⁴⁷ jail mortality,¹⁴⁸ patterns of admission by demographic and criminal charge¹⁴⁹ and patterns of discharge by type.¹⁵⁰

However, in 2013 the agreement with Loyola expired and was not renewed. The reports have been widely acknowledged as valuable, and continue to be cited despite the lack of any update since 2013.¹⁵¹ Dr. Olson expected that the Sheriff's own research staff would continue to release similar reports to the public, but they have not done so.¹⁵² The Sheriff's Office has stated that it had concerns about the accuracy of the Loyola reports and that it had the staff capacity to perform such analysis in-house.¹⁵³

Three reports prepared by Loyola under the agreement remain unpublished. One was an update to the jail population report based on 2013 data that was held up by a technical issue. Another examined the past criminal histories of current detainees. The final report contained an estimate of the portion of the jail population with mental illnesses.

Now the Sheriff's Office publishes a daily jail population number on its website, consisting of the population "behind the walls," a "community corrections" population, and the total population in custody. The website also shows the percentage of arrestees from the last daily intake who self-identified as having a mental illness. No other description of these statistics is given, and historical numbers are not posted.¹⁵⁴

In addition to the daily population, the Sheriff's website contains a page entitled, "Unjust Incarceration: a Look Inside a Broken System."¹⁵⁵ The page contains a brief statement by Sheriff

¹⁴⁵ Report of the Cook County Sheriff's Reentry Council, *Interim Report*, March 27, 2008, pp. 2-3.

¹⁴⁶ David Olson, Cook County Sheriff's Reentry Council, *Quarterly Update*, September 1, 2009.

¹⁴⁷ David Olson, Cook County Sheriff's Reentry Council, *Quarterly Update*, October 1, 2010.

¹⁴⁸ David Olson, Cook County Sheriff's Reentry Council, *Quarterly Update*, October 1, 2010.

¹⁴⁹ David Olson and Koert Huddle, *An Examination of Admissions, Discharges & the Population of the Cook County Jail, 2012*, March 2013.

¹⁵⁰ David Olson and Koert Huddle, *An Examination of Admissions, Discharges & the Population of the Cook County Jail, 2012*, March 2013.

¹⁵¹ Cook County Justice Advisory Council, *Report of the Justice Advisory Council, Examination of Cook County Bond Court*, July 12, 2012, Attachment IV (percent of pretrial detainees in the jail by cash bail amount); Illinois Supreme Court, Administrative Office of the Illinois Courts, *Circuit Court of Cook County Pretrial Operational Review*, March 21, 2014, pp.27-29 (jail admissions by offense type; percentage of discharges from jail by reason; percentage discharges detained two days or less; average length of stay by discharge type); Eric H. Holder, Jr.'s Memorandum to Cook County Public Defender Amy P. Campanelli on Cook County's Wealth-Based Pretrial System, July 12, 2017, p. 3 (more than 90% of admissions are pretrial); p. 5 (percentage released on I-Bond; percentage required to post \$10,000 or more to secure release); p. 27 (recidivism).

¹⁵² Communication between the Civic Federation and David Olson, August 18, 2017.

¹⁵³ Communication between the Civic Federation and the Cook County Sheriff's Office, February 23, 2016.

¹⁵⁴ Cook County Sheriff's website, <http://www.cookcountysheriff.org>, (last accessed on November 14, 2017).

¹⁵⁵ Cook County Sheriff's Office, "Unjust Incarceration: a Look Inside a Broken System," <http://www.cookcountysheriff.org/UnjustIncarceration/CaseStudyMain.html> (last accessed on November 14, 2017).

Dart critiquing the pattern of over-incarceration nationwide and in Cook County. The page also features eighteen case studies, profiling detainees deemed by the Sheriff to have been jailed unjustly. The case studies all have in common minor offenses, such as shoplifting and trespassing, long jail stays, and a high cost to taxpayers, often exceeding tens of thousands of dollars per inmate.

While no other data is posted on the Sheriff's website, the Sheriff has provided data on high-risk defendants released on cash bail to reporters.¹⁵⁶ Moreover, the Sheriff's Office participates in the Board President's STAR reports, providing quarterly average daily populations of the jail and various correctional programs, both within the jail and in the community.

The Sheriff also produces the "Sheriff's Daily Report," an internal report with population data by category.¹⁵⁷ An example can be seen in Appendix B, Exhibit 4. The Civic Federation has obtained daily reports from both the Board President's Office and directly from the Sheriff's Office. However, the Sheriff's Office has not provided additional data on the jail population and admissions by felony or misdemeanor charge, which the Civic Federation requested on August 2, 2017.

The way the Sheriff classifies various programs in the daily reports has shifted over the last several years.¹⁵⁸ In 2013, the reports listed the "Daily Divisional Total" of detainees in addition to various alternative programs, including electronic monitoring, men's day reporting, female furlough, various residential drug-treatment programs and the Sheriff's Boot Camp (which has been repurposed as a vocational training program).¹⁵⁹ Some of these programs were for detainees within the jail, and others for those living outside the jail but still under the Sheriff's supervision. The reports also listed daily totals for detainees in hospitals as well as those temporarily housed in other counties' jails.

Over time, the Sheriff has moved alternative programs for those who spend the night at the jail to a new category called simply "jail population," along with the hospital and other jails counts and the daily divisional total, which has been renamed "general population." The remaining alternative programs, including electronic monitoring, are now called "community corrections."

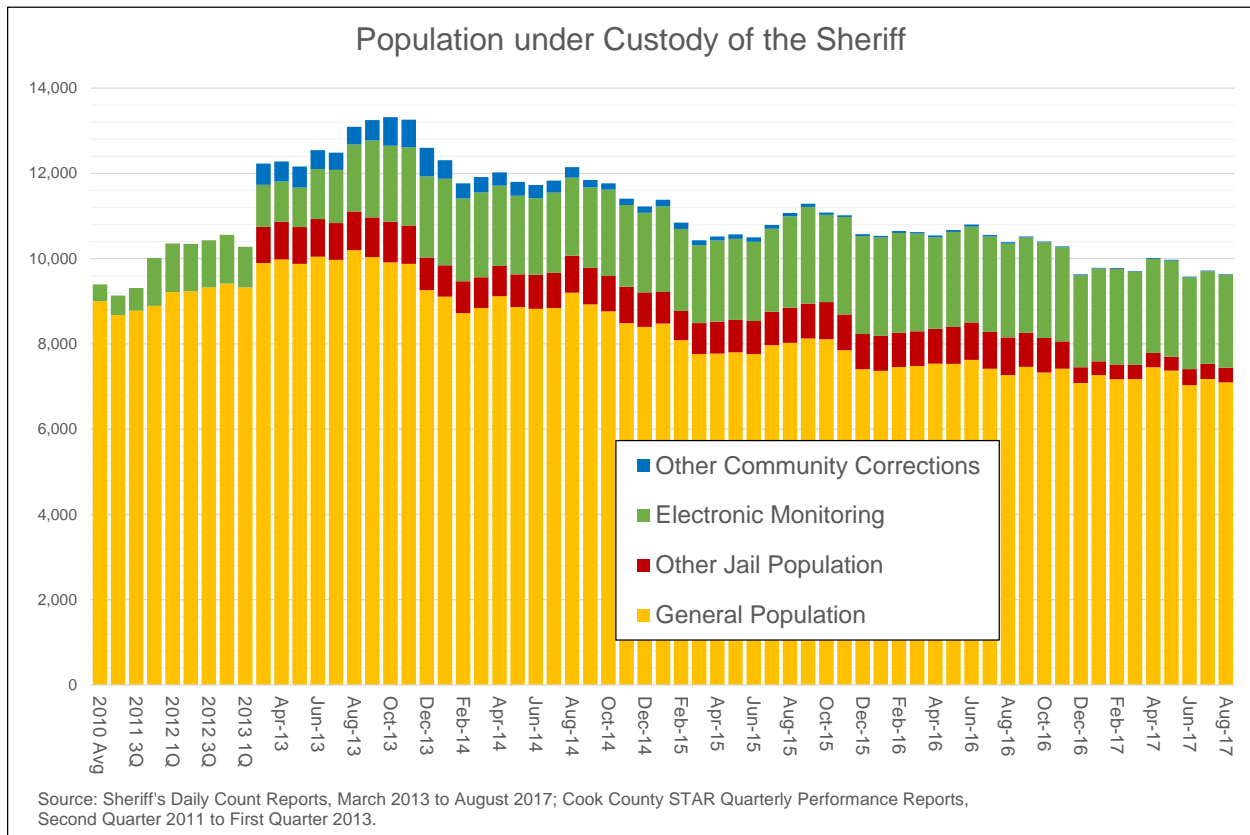
¹⁵⁶ See Todd Lighty, David Heinzmann and Jason Grotto, "Cook County courts raise bonds for gun crimes — but suspects getting out faster," *Chicago Tribune*, January 28, 2017.

¹⁵⁷ In addition to the daily reports, the Sheriff maintains weekly reports that contain summary-level data of the daily reports in only two categories: "Jail Population" and "Community Corrections." However, the weekly reports also contain weekly total bookings, discharges, and shipments, which is the only available data on the population flows into and out of the jail.

¹⁵⁸ Comparison of Cook County Sheriff's Office, *Sheriff's In-Custody Daily Count Log*, March 25, 2013 to *Sheriff's Daily Report*, August 31, 2017.

¹⁵⁹ Tara Kadioglu, "Sheriff's boot camp teams up with Land Bank," *Daily Southtown*, March 24, 2015.

The following chart shows the daily report data for the last available date of each month from March 2013 to August 2017, separated into four categories: general population, other populations currently included in jail population, electronic monitoring, and other programs currently included in community corrections. Prior to March 2013, the chart uses STAR Report quarterly averages for general population and electronic monitoring. Data for the other two categories is not presented in the STAR Reports during that period.



There are two notable trends in this data. First, the general population of the jail, shown above in yellow, rose from around 8,700 in early 2011 to more than 10,000 at its peak in August 2013, the month before the Supreme Court intervention. It has since declined to just above 7,000 in August 2017, a more than 30% drop over four years. Cook County's jail population decline is part of a national trend that saw total jail population in the U.S. drop 7% from a peak of 785,500 in 2008 to 728,200 in 2015.¹⁶⁰ The Cook County Jail general population fell 22% over the same period.¹⁶¹

Second, the number of defendants on electronic monitoring, shown in the chart in green, seems to confirm the patterns shown in the bond court data. The total EM population more than doubled, from a few hundred to over one thousand, in late 2011. It fell to just over nine hundred

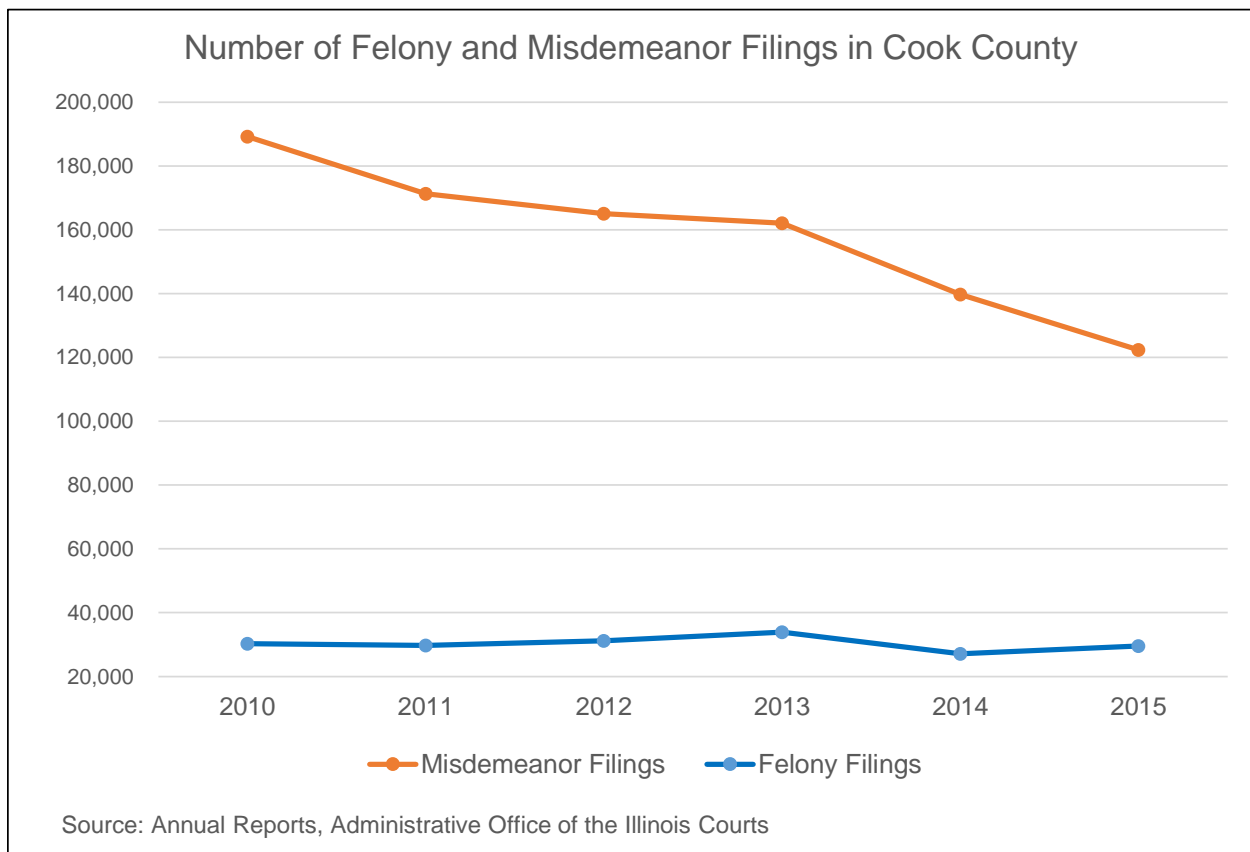
¹⁶⁰ Bureau of Justice Statistics, Annual Probation Survey, Annual Parole Survey, Annual Survey of Jails, Census of Jail Inmates, and National Prisoner Statistics Program, 1980-2015

¹⁶¹ Bureau of Justice Statistics, Jail Inmates at Midyear 2008, Statistical Tables, March 2009, p. 7; Cook County Sheriff's Office, *Sheriff's Daily Report*, June 29, 2015.

when EM orders were suspended in bond court during late 2012 and early 2013, then rose again from mid-2013 to a peak of over 2,300 in early 2016. The EM population appears to have stayed above two thousand since 2015.

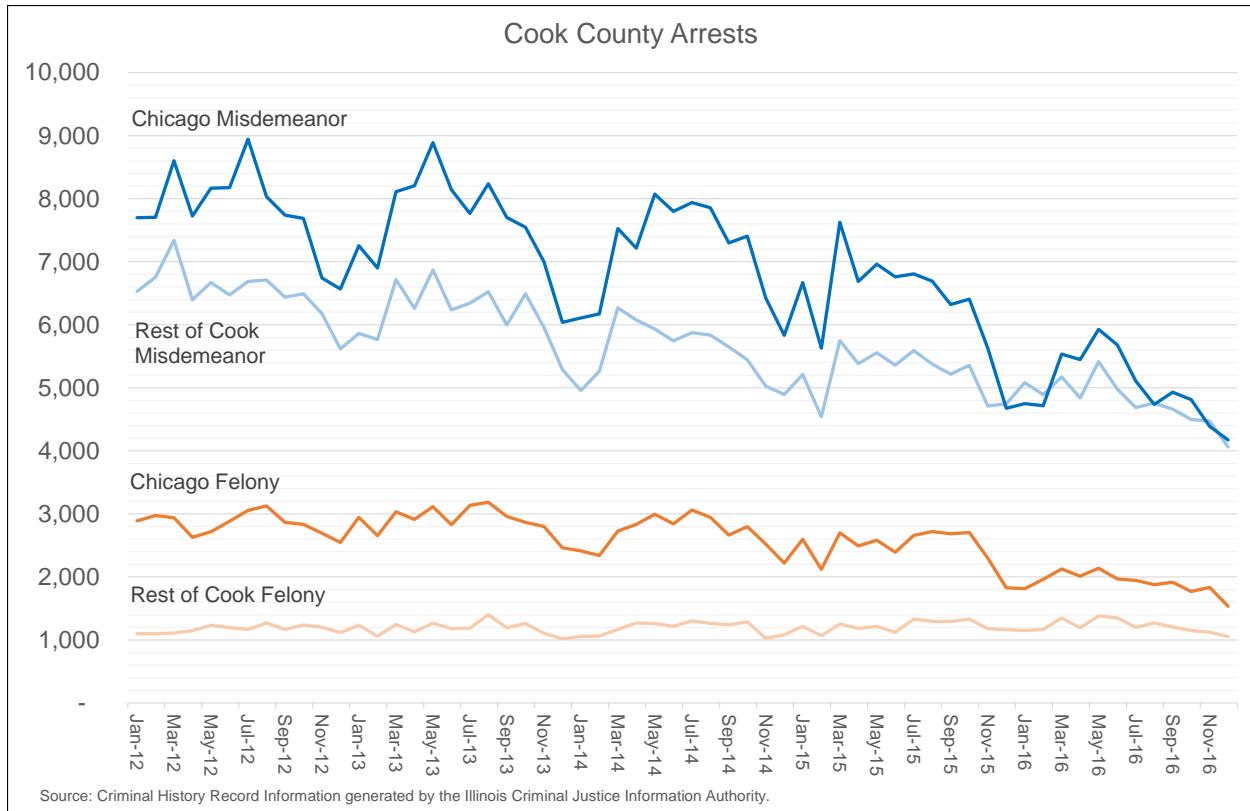
What can be concluded from the available bond court and jail population data? Did changes in bond court policy since the Supreme Court intervention contribute to the decline in jail population since 2013? Given the timing of the decline and the corresponding increase in electronic monitoring, this is certainly a plausible explanation. On the other hand, the rise in electronic monitoring is too small to explain the entire population decline.

Without more complete data, it is not possible to rigorously assess the relative importance of another major potential factor in the jail population—arrests and case filings. According to the Administrative Office of the Illinois Courts, total misdemeanor filings in Cook County fell dramatically from 2011 through 2015, while felony filings stayed roughly level. The following chart shows the available filings data.



The trend in filings follows the data on arrests, maintained by the Illinois Criminal Justice Information Authority and given to the Civic Federation by Loyola University researchers. These data show level felony arrests in suburban Cook County from 2012 to 2016, with Chicago felony arrests falling from about three thousand per month to about two thousand per month during the period. Misdemeanor arrests, which vary seasonally and greatly outnumber felonies, fell dramatically in both Chicago and the suburbs. In Chicago, this is largely the result of a decline in low-level drug possession arrests.¹⁶²

The following chart shows the available arrest data.



The explanation for more recent jail population data seems to be less ambiguous. From August 31 to November 1, 2017, the general population fell from 7,097 to 6,201,¹⁶³ the lowest level since 1988,¹⁶⁴ and a decline of 39.2% since August 2013. The Sheriff has attributed the decline to the Chief Judge’s new policy in effect, since September 18, which is intended to require judges to order only affordable money bail amounts.¹⁶⁵

¹⁶² City of Chicago Data Portal, “Crimes – 2001 to Present – Dashboard”, <https://data.cityofchicago.org/Public-Safety/Crimes-2001-to-present-Dashboard/5cd6-ry5g>, (last accessed November 13, 2017).

¹⁶³ Cook County Sheriff’s Office, *Sheriff’s Daily Report*, August 31, 2017 and November 1, 2017.

¹⁶⁴ U.S. Bureau of Justice Statistics, *Correctional Populations in the United States, 1994*, July 1, 1996, p. 26.

¹⁶⁵ Statement by Cook County Sheriff Tom Dart, *Chicago Tonight*, WTTW Channel 11, November 2, 2017.

Attempts by Other Groups to Obtain Criminal Justice System Data

In the research for this report, the Civic Federation experienced difficulty with simple data requests from the Cook County Sheriff and Office of the Chief Judge. The Civic Federation's research effort is just one among many being undertaken by other groups that are also working to improve access to public criminal justice data in Cook County. Other groups' experiences confirm the difficulty in obtaining data from some criminal justice agencies.

Measures for Justice (MFJ), based in Rochester, New York, is creating a nationwide data portal with objective county-level criminal justice measures.¹⁶⁶ Measures for Justice began collecting data from five counties in Illinois, including Cook County, in 2015 in coordination with the Administrative Office of the Illinois Courts (AOIC). However, even with a directive from the AOIC encouraging cooperation, MFJ had difficulty obtaining Cook County data. The MacArthur Foundation, which provided grant funding to Measures for Justice for data collection in Illinois, said MFJ had to submit a Freedom of Information Act request to the Cook County Sheriff in order to get jail data, and received court data from the Chief Judge after a lengthy process but found the first six months of data were unusable because of recording errors.¹⁶⁷ Measures for Justice is currently collecting data for five-year periods from 2009-2013 and 2011-2015, and plans to update each set of measures every two years.¹⁶⁸

Tracy Siska of the Chicago Justice Project, a research organization that aims to access and analyze criminal justice data, described the long and slow process his organization experienced with a request for felony case data. The Chicago Justice Project submitted a request to the Chief Judge for 30 years of all felonies on a case-level basis, which is an average of about 30,000 cases per year. It took almost a year for the Chief Judge to approve the request. Several weeks after the approval, the Clerk of the Circuit Court told the Chicago Justice Project that the data request would cost \$25,000. The cost, the Clerk said, was to cover the time it would take for the Clerk's office to remove identifying information from the cases that did not result in a conviction, a rule imposed by the Chief Judge despite the fact that all paper court records are a matter of public record regardless of conviction.¹⁶⁹

David Eads, a *ProPublica* data journalist, developed a data scraper that pulls data from public individual inmate records directly from the Sheriff's website to create daily snapshots of the total Cook County Jail population. Eads developed the project after experiencing difficulty obtaining aggregate data, even though individual inmate records are publicly available.¹⁷⁰

Several organizations are collaborating their efforts to collect justice system data and make it available to the public.¹⁷¹ The Chicago Data Cooperative is a joint effort of *Injustice Watch*, DataMade, the Invisible Institute, Smart Chicago, the *Chicago Reporter*, Adler University and the Chicago Appleseed Fund for Justice. Members of the Data Cooperative are currently working

¹⁶⁶ The Measures for Justice Data Portal is at <https://measuresforjustice.org/portal/>.

¹⁶⁷ Communication between the Civic Federation and the MacArthur Foundation, September 6, 2017.

¹⁶⁸ Communication between the Civic Federation and Measures for Justice, September 7, 2017.

¹⁶⁹ Communication between the Civic Federation and the Chicago Justice Project, September 28, 2017.

¹⁷⁰ David Eads, "How (and Why) We're Collecting Cook County Jail Data," *ProPublica*, July 24, 2017.

¹⁷¹ Communication between the Civic Federation and *Injustice Watch*, September 8, 2017.

to obtain data from the Sheriff and the Chief Judge on jail population, criminal charges, bond court decisions and case outcomes.¹⁷²

Northwestern University, in partnership with Loyola University, the Justice Mapping Center and DataMade, is developing a Cook County Justice Audit aimed at continuing to build coordination among the Cook County criminal justice agencies. The Justice Audit integrates this information using a web-based platform that allows users on an ongoing basis to analyze their systems at key decision points and to develop priorities for collaboration and system improvement. The Justice Audit has been in development since 2015 and will take several more years to complete.¹⁷³

Because of a lack of available bond court data, *Injustice Watch*, which investigates criminal and social justice issues and posts reports on its website, determined that observing bond court directly seemed to be the only way to obtain bond court data.¹⁷⁴ Several reporters observed bond court in six Cook County courthouses and reported their findings in November 2016.¹⁷⁵

In addition to *Injustice Watch*, other groups and government agencies have also observed bond court to collect data and report on their findings including the Cook County Justice Advisory Council,¹⁷⁶ the League of Women Voters,¹⁷⁷ the Reclaim Campaign¹⁷⁸ and the Cook County Sheriff's Justice Institute.¹⁷⁹ Several of these groups found inconsistencies between bond orders in similar cases and little relationship between the PSA recommendation and the judges' bond orders. The Coalition to End Money Bond, a group of advocacy organizations organized 100 "community court watchers" to observe Central Bond Court every day during the month of August 2017 to serve as a basis for comparison when evaluating the impact of the Chief Judge's new bond court order.¹⁸⁰ The court watchers plan to monitor bond court one week per month into the foreseeable future to assess outcomes of the Chief Judge's order.

¹⁷² Communication between the Civic Federation and *Injustice Watch*, September 8, 2017.

¹⁷³ Communication between the Civic Federation and Cook County Justice Audit, September 21, 2017.

¹⁷⁴ Communication between the Civic Federation and *Injustice Watch*, September 8, 2017.

¹⁷⁵ Injustice Watch staff, "Jail Roulette: Cook County's arbitrary bond court system," *Injustice Watch*, November 29, 2016.

¹⁷⁶ Cook County Justice Advisory Council, *Examination of Cook County Bond Court (January 2012 – June 2012)*, July 12, 2012.

¹⁷⁷ League of Women Voters of Cook County, *Pretrial Systems: Report of the Criminal Justice Interest Group*, December 16, 2015.

¹⁷⁸ Community Renewal Society on Behalf of the Reclaim Campaign, *Cook County Bond Court Watching Project: Final Report*, February 2016.

¹⁷⁹ Cook County Sheriff's Office, Sheriff's Justice Institute, *Central Bond Court Report*, April 2016.

¹⁸⁰ Coalition to End Money Bond, "Our Accomplishments," <http://www.chicagoappleseed.org/coalition-to-end-money-bond/> (last accessed on November 13, 2017); The People's Lobby, "New Bond Policy Could Cut Jail Population by Half," *news release*, September 18, 2017.

RECOMMENDATIONS

Issue 1: Cook County Bond Court Data

There are serious issues with access to pretrial court data and the quality of the data. To obtain data from the Cook County Circuit Court, a request must be submitted to the Chief Judge's Office.¹⁸¹ If the request is approved, the Chief Judge directs the Clerk of the Circuit Court to process the data request, which may incur a charge.¹⁸²

As previously discussed, the Civic Federation and other organizations have had trouble getting responses to bond court data requests, and there are problems with data inconsistencies and reliability. Several groups have tried to get around these problems by making their own attempts to obtain pretrial system data through direct bond court observations.

As a result of the Illinois Supreme Court's intervention in 2013, the Chief Judge's Office in cooperation with other justice system leaders has developed a statistical dashboard on pretrial services with metrics on factors such as the number of people taken into custody, case disposition, rearrests and failures to appear.¹⁸³ The Civic Federation has requested, but not received, the dashboard and the Chief Judge's Office has not yet determined whether the dashboard will be released publicly.

Several jurisdictions release pretrial and bond court data. For example, Harris County, Texas produces an annual pretrial services report.¹⁸⁴ The report includes data on case dispositions, defendants' charges and prior histories, risk scores and releases, and many other metrics. An example of a table from the report showing money bail amounts and the percentage of defendants who posted bond is shown in Appendix C, Exhibit 5.

New York City's Criminal Justice Agency (CJA)¹⁸⁵ also releases an annual report with comprehensive data and statistics describing the pretrial process. It includes statistics on the types of charges, release recommendations made by pretrial interview staff, bond hearing outcomes, percentage of defendants able to pay bail by amount and type of charge (felony or misdemeanor), release rates by charge severity, money bail amounts set, failure to appear rates and court reminder outcomes, among other metrics.¹⁸⁶ Several of those graphs are included in Appendix C, Exhibits 6-9.

¹⁸¹ Illinois courts are exempt from the State's Freedom of Information Act, so the Chief Judge is not required by law to release data to those who request it.

¹⁸² Clerk of the Circuit Court, "Special Request for Electronic Records."

¹⁸³ Illinois Supreme Court, Administrative Office of the Illinois Courts, *Circuit Court of Cook County Pretrial Services Operational Review of Recommendations, Sustainability Review Form*, March 31, 2017; Communication between the Civic Federation and the Administrative Office of Illinois Courts, July 7, 2017.

¹⁸⁴ The Harris County Pretrial Services 2015 Annual Report is available at <https://pretrial.harriscountytexas.gov/Library/2015%20Annual%20Report.pdf> (last accessed on November 13, 2017).

¹⁸⁵ The Criminal Justice Agency is a nonprofit that contracts with the New York City Office of the Coordinator for Criminal Justice to provide pretrial services, conduct pretrial interviews and produce research and reports on New York's criminal justice system.

¹⁸⁶ The Criminal Justice Agency's *Annual Report 2015* is available for download at <http://www.nycja.org/library.php> (last accessed on November 13, 2017).

The Pretrial Services Agency for the District of Columbia measures outcomes of its pretrial services program through three key performance measures: the percentage of defendants who remain arrest free during their pretrial release period, the percentage of defendants who make all of their scheduled court appearances during the pretrial period and the percentage of defendants who remain on release at the conclusion of their pretrial period without noncompliance.¹⁸⁷

A pretrial reform bill introduced in the U.S. Senate would require annual reporting of several data metrics for jurisdictions that apply to be a part of the proposed reform program.¹⁸⁸ These data metrics also provide a model for a comprehensive evaluation of Cook County's pretrial system. The following are the data metrics, each of which are broken down by demographic variables of age group, sex, race and ethnicity, disability, charge-risk profile, and release condition:

- The percentage of defendants released from jail prior to their case disposition;
- The average time to release from jail for defendants who are released pretrial;
- The percentage of defendants who are detained for the entire duration of the pretrial phase of their case;
- The average duration that pretrial defendants who are not released are in custody in jail before the disposition of their case;
- The percentage of defendants released from custody before trial who appeared at all court appearances; and
- The percentage of defendants released from custody before trial who were not arrested or charged with a new crime during the pretrial phase of their case.

The Chief Judge should use the data examples above to develop and publicly release data reports. Given the attention to wide disparities in orders by Cook County judges, the data should include anonymous breakdowns of bond orders by judge.¹⁸⁹ The Civic Federation recognizes that in order to produce the aforementioned metrics the Chief Judge's Office will need to obtain some data from the Sheriff's Office because several metrics rely on jail data.

Civic Federation Recommendations on Bond Court Data

The Civic Federation recommends that the Chief Judge's Office:

- **Post a dashboard on the Circuit Court's website that is updated on a regular and frequent basis with bond court orders and release results anonymously by judge and failure to appear and re-arrest rates; and**
- **Produce a periodic, publicly available, comprehensive analysis of bond court procedures and outcomes.**

¹⁸⁷ Pretrial Services Agency for the District of Columbia, Performance Measures.

¹⁸⁸ The bill, S 1593, 115th Congress (introduced in the Senate on July 20, 2017), would create a grant program to provide funding to states or Indian tribes to reform their pretrial systems by encouraging the replacement of money bail as a means for pretrial release. The models discussed here are data that grantees would be required to report as part of the grant program. The text of the bill as introduced can be found at <https://www.congress.gov/bill/115th-congress/senate-bill/1593/text> (last accessed on November 13, 2017).

¹⁸⁹ Illinois Supreme Court, Administrative Office of the Illinois Courts, *Circuit Court of Cook County Pretrial Operational Review*, March 2014, pp. 44-45; Cook County Sheriff's Office, Sheriff's Justice Institute, *Central Bond Court Report*, April 2016, p. 8; Injustice Watch staff, "Jail Roulette: Cook County's arbitrary bond court system," *Injustice Watch*, November 29, 2016; Injustice Watch staff, "New Cook County bond court rules appear to reduce, but not eliminate problems," *Injustice Watch*, October 25, 2017.

Issue 2: Cook County Jail Data

The Cook County Sheriff’s website has limited data, including the current number of detainees and the percentage of individuals booked daily who self-identify as having a mental illness. The site also has “Unjust Incarceration Case Studies,” which profile detainees deemed by the Sheriff to have been jailed unjustly. The case studies all have in common minor offenses, such as shoplifting and trespassing, long jail stays, and a high cost to taxpayers, often exceeding tens of thousands of dollars per inmate.¹⁹⁰ The Sheriff also frequently cites selective statistics in public testimony and interviews.

If jail population and admission data were published with breakdowns by charge and by felony or misdemeanor status, it would help to show to what extent the decline in jail population is being driven by the changing composition of arrests. If data were published with breakdowns by bond type and level, it would help show the extent to which bond court orders have an effect. Data regarding length of stay would help to explain another important variable influencing the jail population. Finally, if there were more complete information available on jail population demographics, including issues such as mental illness, it would help inform public discussion on the social implications of justice system administration.

A number of other jurisdictions produce public comprehensive data and reports about their jail populations. For example, New York City produces quarterly jail population reports that include data on the average daily population, pretrial status of individuals in custody, money bail amounts set and the number of days in custody. The New York City Department of Corrections also produces a “Department of Corrections at a Glance” snapshot with average daily population, total admissions and total discharges; breakdowns by race and gender; average length of stay; percentage of inmates who are high need or high risk; and the top arrests for inmates.¹⁹¹ An example of the “at a glance” snapshot can be found in Appendix D, Exhibit 10.

The Washington, D.C. Department of Corrections produces quarterly jail population reports with trends in inmate population totals over the past several years and Facts and Figures reports with information about the Department of Corrections budget, inmate population (including demographics), the number of intakes and releases, areas where inmates live, average length of stay in jail by custody status, charges and re-incarceration rates.¹⁹² An example of one of the charts in the Facts and Figures report featuring average length of stay by type of defendant is in Appendix D, Exhibit 11.

In Harris County, Texas, the County’s Criminal Justice Coordinating Council produced a series of jail population reports that included jail population data as well as snapshots of breakdowns of

¹⁹⁰ See the Cook County Sheriff’s website, “A Note on Unjust Incarceration.”

¹⁹¹ “NYC Department of Correction at a Glance,” available at https://www1.nyc.gov/assets/doc/downloads/pdf/DOC_At_a_Glance-9-14-17.pdf (last accessed on November 13, 2017).

¹⁹² These reports can be found at <https://doc.dc.gov/page/inmate-demographics-and-statistics> (last accessed on November 13, 2017).

the jail population by criminal status and by mental health history, as shown in Appendix D, Exhibit 12.¹⁹³

Mecklenburg County, North Carolina produces quarterly jail population reports that contain characteristics of the jail population, bookings, releases, lengths of stay and assessed risk level.¹⁹⁴ The report's public safety assessment risk level data is shown in Appendix D, Exhibit 13.

In Winnebago County, Illinois, the Sheriff's Department produces reports with jail population, bookings and arrest and crime statistics.¹⁹⁵ An example of one of the County's Department of Corrections bookings reports can be found in Appendix D, Exhibit 14.

In addition to these examples from across the country and in Illinois, a useful example of jail data reports comes from the Sheriff's Office itself. As previously discussed in this report, the Sheriff had an agreement with researchers at Loyola University until 2013 to produce research reports on the Cook County Jail population. These research bulletins contained valuable information that allowed for criminal justice researchers and advocates to understand the makeup of the jail.

The Sheriff's Office should join the jurisdictions that make comprehensive data about their jail populations publicly available. The Civic Federation recommends that the Sheriff produce regularly updated dashboard reports with jail data on inmates in custody at that point in time. An example of a dashboard is presented in Appendix D, Exhibit 10, the New York City jail population "at a glance." The dashboard should include at least a snapshot of the behind the walls jail population, broken down by gender, race, age, felony vs. misdemeanor and the percentage of the jail population that is pretrial, has mental health needs and is in custody on a violent charge.

Following the example of other jurisdictions, the Sheriff should produce analyses regularly that provide comprehensive data on the makeup of the jail population and trends in metrics over time. A comprehensive analysis would include the following at the minimum:

- A demographic breakdown of the jail population by race, age, gender and area of residence;
- The number of defendants who are on electronic monitoring, and the percentage of those defendants on EM who are pretrial and post-conviction;
- The percentage of defendants who are in jail for felonies and misdemeanors;
- Average length of stay in jail and length of stay by type of offense;
- The percentage of the jail population with mental health needs;

¹⁹³ The Harris County January 2016 Jail Population Report is available at https://cjcc.harriscountytexas.gov/Documents/Jail%20Population%20Presentation%20and%20Graphs%202016_01.pdf (last accessed on November 13, 2017).

¹⁹⁴ The Mecklenburg County Jail Population Trend Report for January-March 2017 is available at <https://www.mecklenburg.gov/CriminalJusticeServices/Documents/Jail%20Population/Population%20FY17%20Q3.pdf>, (last accessed on November 13, 2017).

¹⁹⁵ These reports are available for download at http://www.winnebagoheriff.com/index.php?option=com_docman&task=cat_view&gid=22&Itemid=156&Itemid=156 (last accessed on November 13, 2017).

- Average daily jail population trends, with breakdowns by offense type (misdemeanor or felony, violent vs. nonviolent); and
- Trends in admissions and releases, including lengths of stay, by bond order type and bail amount.

The Civic Federation recognizes that in order to produce the aforementioned metrics the Sheriff's Office will need to obtain some data from the Chief Judge's Office because several metrics rely on bond court data.

Civic Federation Recommendation on Jail Data

The Civic Federation recommends that the Sheriff's Office:

- **Post the Sheriff's Daily Reports on the Sheriff's website;**
- **Post a dashboard with demographic and offense characteristics of detainees; and**
- **Produce publicly available, comprehensive analyses of the jail population and trends that are updated on a regular and frequent basis.**

Issue 3: Special Reports on Bond Court

In July 2015, pretrial services officers began providing Central Bond Court judges with risk assessment scores generated by the Public Safety Assessment (PSA) for felony defendants. The PSA produces two scores for each defendant: one for the likelihood of failing to appear in court and the other for the likelihood of committing a crime before trial.¹⁹⁶ The formula also flags defendants deemed likely to commit a violent crime. By March 2016 bond court judges started to receive release recommendations associated with the PSA scores, as well as the scores themselves, and the PSA was used for felony cases across the County by September 2016.¹⁹⁷

However, it is unclear to what extent bond court judges have used risk assessment tools or what effect the new formula has had on bail decisions. The Chief Judge's Office has not issued a comprehensive evaluation of the PSA's impact but has provided limited statistics showing higher rates of non-monetary bonds for non-violent, non-weapons cases and reduced use of cash bail.

Based on the bond court audit dispositions obtained by the Civic Federation, the data show almost no change in bond orders from the period just before implementation of the PSA in July 2015 through the completion of implementation in March 2016, or thereafter. However, these data combined with the Chief Judge's statements together imply that the pattern of bond court orders may be driven as much by changes in arrests and charges as by court policy. Only a complete data set will allow for full evaluation of the Chief Judge's claim.

The Chief Judge's Office provided the Civic Federation with data on missed court dates and new arrests for felony defendants evaluated by the PSA and released pending trial. The numbers are difficult to assess due to lack of baseline information.

¹⁹⁶ Laura and John Arnold Foundation website.

¹⁹⁷ The PSA is scheduled to be used for misdemeanor defendants beginning on January 1, 2018.

The Administrative Office of the Illinois Courts is evaluating the use of the Public Safety Assessment in Cook, McLean and Kane Counties but has not determined whether the study will be made available to the public.¹⁹⁸

The new bond court policy that took effect on September 18, 2017 could bring about even more significant changes by decreasing the use of cash bail as a barrier to a defendant's release. A news release announcing the new policy stated that the Chief Judge's Office plans to review results in a year to determine the impact on the size and makeup of the jail population, defendants' appearance at court hearings and whether individuals commit crimes while their cases are pending.¹⁹⁹ The Chief Judge has said that the analysis would be distributed to the County's criminal justice leaders.²⁰⁰ However, it remains to be seen what data, if any, will be made available to the public.

Civic Federation Recommendation on Special Reports on Bond Court

The Civic Federation recommends that analyses of the Public Safety Assessment and the new cash bail policy by the Chief Judge's Office and Administrative Office of the Illinois Courts, along with the supporting data, should be made available to the public.

Issue 4: Special Reports on the Jail

Certain issues regarding Cook County Jail, including the use of electronic monitoring, the extent of detainees' mental health problems and the criminal backgrounds of pretrial detainees, should be examined by criminal justice experts. The Sheriff—with cooperation from the Chief Judge—should use in-house researchers to do the analyses or make agreements with academic criminal justice experts. In either case, data used in the reports should be made available to the public, with appropriate provisions for confidentiality of health-related records.

- Electronic monitoring: The number of defendants on the Sheriff's electronic monitoring (EM) program has more than tripled from a daily average of 523 in August 2011²⁰¹ to 2,170 on August 31, 2017.²⁰² As discussed in this report, EM releases declined from late 2012 through mid-2013 due to a change in judges' bond orders that remains unexplained.²⁰³ Although the use of EM allows individuals to be released from jail while awaiting trial, it is still a highly restrictive condition. It should not be used to monitor low or medium-risk defendants because of harmful effects on personal relationships and

¹⁹⁸ Communication between the Civic Federation and the Administrative Office of the Illinois Courts, October 26, 2017.

¹⁹⁹ Office of the Chief Judge, Circuit Court of Cook County, "Evans changes cash-bail process for more pretrial release," *news release*, July 17, 2017.

²⁰⁰ Statement by Timothy C. Evans, Chief Judge of the Circuit Court of Cook County, at a press conference on October 4, 2017 on the MacArthur Safety and Justice Challenge grant.

²⁰¹ *United States v. Cook County, Ill.*, No. 10-2946 (N.D. Ill filed May 13, 2010). See *Defendant, Thomas J. Dart, Sheriff of Cook County's Position Paper Regarding Electronic Monitoring*, March 8, 2013, p. 3.

²⁰² Cook County Sheriff's Office, *Sheriff's Daily Report*, August 31, 2017.

²⁰³ For more information on this change in bond court orders, see p. 15 of this report.

employment.²⁰⁴ Improved data on EM utilization and compliance were recommended in the Illinois Supreme Court's March 2014 study of Cook County's pretrial operations.²⁰⁵

- **Mental health population:** The Sheriff has widely publicized the fact that the jail is being used inappropriately to house individuals with mental health problems,²⁰⁶ but data on mentally ill detainees has been sparse. The Sheriff's website has the percentage of arrestees from the last daily intake who self-identified as having a mental illness, but no other description of these statistics is given, and historical numbers are not posted. A report by Loyola researchers on jail detainees with mental health problems was among those never released by the Sheriff's Office. The only systematic data on the mental health population has come from a federal court monitor, whose last report showed 29% of detainees were receiving mental health services at the jail: 22% on an outpatient level, 5.1% on an intermediate level and less than 1% on an acute level.²⁰⁷
- **Criminal backgrounds:** A report by Loyola researchers showed that although 29% of those admitted to the jail in 2012 were currently charged with a violent crime, about 82% of those in the jail on any day had one or more prior arrests for a violent crime.²⁰⁸ A report expanding on this finding was not published by the Sheriff's Office. An analysis of this issue could clarify that the classification of a detainee as violent depends on whether you are looking at current or past charges and arrests or convictions. It might also help the public to understand bond court judges' reluctance to release more defendants.

Civic Federation Recommendation on Special Reports on the Jail

The Civic Federation recommends that the Sheriff's Office—with cooperation from the Chief Judge's Office—produce and post on its website reports on the use of electronic monitoring, the prevalence and severity of detainees' mental health problems and the criminal backgrounds of pretrial detainees. The reports could be written in-house or by academic criminal justice experts, but background data should be made available to the public, with appropriate provisions for confidentiality of health-related records.

²⁰⁴ Criminal Justice Policy Program, Harvard Law School, *Moving Beyond Money: A Primer on Bail Reform*, October 2016, p. 17.

²⁰⁵ Illinois Supreme Court, Administrative Office of the Illinois Courts, *Circuit Court of Cook County Pretrial Operational Review*, March 2014, p. 37. The report also called for a compliance review of the Chief Judge's Home Confinement Curfew EM program.

²⁰⁶ Lesley Stahl, 60 Minutes, "Half of the Inmates Shouldn't Be Here, Says Cook County Sheriff," *CBS News*, May 21, 2017.

²⁰⁷ *United States v. Cook County, Ill.*, No. 10-2946 (N.D. Ill filed May 13, 2010). See *Monitor Jeffrey L. Metzger, M.D.'s Report No. 14*, May 2, 2017, p. 28.

²⁰⁸ David E. Olson and Koert Huddle, Cook County Sheriff's Reentry Council Research Bulletin, *An Examination of Admissions, Discharges & the Population of the Cook County Jail, 2012*, March 2013, p. 5.

Issue 5: Analysis of the Impact of Jail Population Reduction on Jail Costs

The general population of the Cook County Jail, at about 6,200 detainees, is at its lowest level since at least 1988.²⁰⁹ The total population under the Sheriff's custody, including individuals on electronic monitoring, has declined by nearly 3,700, or about 28%, from a recent peak of more than 13,000 in October 2013 to approximately 9,600 in August 2017.²¹⁰

In light of this significant reduction, it might seem logical to expect that the jail's operating costs would also decrease substantially. The Chief Judge, in a panel discussion at the City Club of Chicago in May 2015, said the decline in the jail population was saving the County \$70 million per year.²¹¹ At a recent Cook County budget hearing, the Chief Judge said the County's savings due to the new cash bail policy could be calculated by multiplying the daily average detainee cost by the reduction in the number of detainees.²¹²

However, most jail costs cannot be reduced in proportion to the decline in the jail population. The majority of jail costs are for personnel and decrease significantly only when the reduction in the number of detainees is sufficient to alter full-time staffing levels. This happens when the population reduction is large enough so that housing units can be closed.²¹³

A recent study by the Illinois Sentencing Policy Advisory Council found that about 88% of Cook County Jail's total costs fall into this category.²¹⁴ Of a total estimated per detainee cost per year of \$61,067, more than \$53,000 was driven primarily by staffing levels.²¹⁵

Due to the reduction in the jail population, two jail buildings with combined capacity of 520 were demolished in 2017 and another building with capacity of 1,250 is expected to be torn down next year.²¹⁶ The actions are expected to save more than \$3 million in building operating costs per year and avoid \$188 million in maintenance and renovations over the next decade.²¹⁷ A master plan on reshaping the jail site is being prepared.²¹⁸

It remains unclear what long-term impact these changes will have on the jail's personnel costs. Besides the savings on facilities expenses, the Board President's proposed budget for fiscal year

²⁰⁹ U.S. Bureau of Justice Statistics, *Correctional Populations in the United States, 1994*, July 1, 1996, p. 26.

²¹⁰ See p. 27 of this report for an explanation of these numbers, which do not include individuals in the electronic monitoring program operated by the Chief Judge's Office through the Adult Probation Department's Home Confinement Unit.

²¹¹ City Club of Chicago, "Cook County Justice," *video*, May 7, 2015, <https://www.cityclub-chicago.org/video/1007/cook-county-justice> (last accessed on November 13, 2017).

²¹² Statement by Timothy C. Evans, Chief Judge of the Circuit Court of Cook County, at Cook County Board of Commissioners Finance Committee Meeting, October 27, 2017.

²¹³ Christian Henrichson et al., Vera Institute of Justice, *The Price of Jails: Measuring the Taxpayer Cost of Local Incarceration*, May 2015, p. 21.

²¹⁴ Illinois Sentencing Policy Advisory Council, *Quantifying the County Adult Criminal Justice Costs in Illinois*, December 6, 2016, p. 10.

²¹⁵ These numbers are for the year ended November 30, 2016 and include pension and debt service costs.

²¹⁶ Communication between the Civic Federation and the Cook County President's Office, September 27, 2017.

²¹⁷ Cook County Government, "President Preckwinkle, Sheriff Dart Announce Demolition of Underutilized Jail Buildings," *news release*, November 30, 2016.

²¹⁸ Cook County FY2017 Appropriation Bill, Volume 2, p. U-4.

2018 has only \$527,000 in savings related to the decline in the jail population.²¹⁹ Those savings stem from a reduction in vacant positions, lower food and uniform costs and fewer detainees housed outside of Cook County.

Sheriff Dart said at a recent budget hearing that there are plans to close another jail division if the number of detainees continues to fall.²²⁰ In a presentation to Cook County commissioners, the Sheriff's Office stated that the number of jail officers declined by 17.5% from 3,303 in 2014 to 2,724 in 2017 and average daily overtime hours fell by 39.2% from 2,279 to 1,385.²²¹

According to budget documents, the Cook County Department of Correction's full-time equivalent positions rose from 3,666.0 in FY2011 to 4,432.4 in FY2015, as jail personnel were added to satisfy the federal consent decree then in effect, and stood at 4,267.7 in FY2017.²²² Appropriations for salaries and wages at the jail rose by 43.2% to \$276.0 million in FY2017 from \$192.7 million in FY2011, while budgeted overtime increased by 76.2% to \$22.9 million from \$13 million during the same period.²²³

The cost of jail operations is a complex matter. In light of the sharp increase in electronic monitoring, consideration must be given to expenses for alternative corrections programs that do not involve incarceration. Nevertheless, due to the size of the jail and the importance of criminal justice policy, the public deserves a detailed accounting of jail costs.

Civic Federation Recommendation on Analysis of Jail Costs

The Civic Federation recommends that Cook County budget officials in cooperation with the Sheriff and the Chief Judge examine the feasibility of cost savings and efficiencies over time as a result of the reduction in the jail population. The analysis should take into account the costs of community corrections, including electronic monitoring under the Sheriff and pretrial services supervision by the Chief Judge. The analysis should be made available to the public on the Cook County Government website.

²¹⁹ Cook County FY2018 Executive Budget Recommendation, Budget Briefing, October 5, 2017.

²²⁰ Statement by Cook County Sheriff Tom Dart at Cook County Board of Commissioners Finance Committee meeting, October 25, 2017, <https://cook-county.legistar.com/MeetingDetail.aspx?ID=568655&GUID=8B4B8618-2F8F-4BD8-9340-4FCED331E69F&Options=&Search=> (last accessed on November 13, 2017).

²²¹ Cook County Sheriff's Office, *FY2018 Sheriff Presentation*, October 25, 2017, <https://cook-county.legistar.com/View.ashx?M=AO&ID=53590&GUID=1669b857-8930-47c1-9eb9-f3a5abee4440&N=RlkgMjAxOCBTaGVyaWZmIFByZXNlbnRhdGlvb5wZGY%3d> (last accessed November 13, 2017).

²²² Cook County FY2018 Executive Budget Recommendation, Volume 1, p. 104. The Sheriff was dismissed from federal oversight in June 2017, after having met all the terms of the agreement.

²²³ Cook County FY2011 Appropriation Bill Volume 2, p. V-56; Cook County FY2017 Appropriation Bill, Volume 2, p. Z-54.

Issue 6: Criminal Justice Coordinating Council

Cook County's criminal justice system, composed of five separate agencies, has historically been known for its lack of collaboration and centralized planning.²²⁴ A study in 1992 compared the structure of the system to a doughnut, with all of the agencies located around a large hole in the middle.²²⁵

Since late 2013, when the Illinois Supreme Court intervened at the request of Cook County Board President Preckwinkle, the high court and particularly its administrative arm have played a central coordinating role. Under the guidance of the Administrative Office of the Illinois Courts, a Stakeholders Committee of the criminal justice leaders has held regular meetings and a working group of key staff members has dealt collaboratively with specific issues.

The results have been encouraging. It is not a stretch to credit the Supreme Court's involvement for the ramp-up in electronic monitoring, which led in part to the decline in the jail population. There has been accelerated movement on long needed information-sharing projects and more coordinated efforts to divert low level offenders and individuals with mental health and substance abuse problems from the criminal justice system.

One indication of improvement is the recent decision by the MacArthur Foundation to award Cook County a \$1.85 million Safety and Justice Challenge grant, after turning down the County's application a year ago because of inadequate cooperation among the leaders. The leaders are also more closely aligned on policy in the wake of the November 2016 elections.

Much more work needs to be done to create a criminal justice system that functions fairly and efficiently and engages in comprehensive strategic planning. To that end, the Illinois Supreme Court should remain in its central role and preside over a new Cook County Criminal Justice Coordinating Council. Such councils are designed to help local government officials improve justice planning, analysis and coordination capabilities.²²⁶ Membership would include all of the County criminal justice leaders, the County Board President, the Superintendent of the Chicago Police Department and a government social services agency that serves people involved with the criminal justice system.

Cook County previously had a Coordinating Council that was formed to deal with jail overcrowding at the direction of the federal court overseeing a consent decree,²²⁷ but it has not been active for many years. Because of the continuing distrust among Cook County criminal justice stakeholders, it has been difficult for the Cook County Justice Advisory Council (whose members are appointed by the Board President) to fully effect a coordinating role, although it has

²²⁴ Bureau of Justice Assistance, U.S. Department of Justice, and American University, Adjudication Technical Assistance Project, *An Assessment of the Felony Case Process in Cook County, Illinois and its Impact on Jail Crowding*, November 1989, pp. 1-5.

²²⁵ John P. Heinz and Peter M. Manikas, *Networks among Elites in a Local Criminal Justice System*, *Law & Society Review*, Volume 26, Number 4 (1992), p. 846.

²²⁶ National Institute of Corrections, U.S. Department of Justice, *Guidelines for Developing a Criminal Justice Coordinating Council*, January 2002, p. 1.

²²⁷ John P. Heinz and Peter M. Manikas, *Networks among Elites in a Local Criminal Justice System*, *Law & Society Review*, Volume 26, Number 4 (1992), p. 850.

performed an important public service and should continue to pursue its mission of studying the criminal justice system and recommending improvements.

The Illinois State Commission on Criminal Justice and Sentencing Reform recommended in a December 2016 report that incentives and support be provided to establish local coordinating councils to develop strategic plans to address crime and corrections policy.²²⁸ Following the recommendation, the Illinois Criminal Justice Information Authority launched a project to help counties develop strategic plans for criminal justice by using Criminal Justice Coordinating Councils.

Five counties—Lake, McHenry, McLean, St. Clair and Winnebago—were chosen to participate in the project, which is called the County Criminal Justice Planning Partnership. The request for proposals specifically excluded Cook County because it was involved in other planning efforts.

Civic Federation Recommendation on a Criminal Justice Coordinating Council

The Civic Federation recommends that Cook County establish a Criminal Justice Coordinating Council, led by a representative of the Illinois Supreme Court, to improve justice planning, analysis and coordination capabilities.

²²⁸ Illinois State Commission on Criminal Justice and Sentencing Reform, *Final Report*, December 2016, p. 26, http://www.icjia.org/cjreform2015/pdf/CJSR_Final_Report_Dec_2016.pdf (last accessed on November 13, 2017).

APPENDIX A: PUBLIC SAFETY ASSESSMENT EVALUATION TOOLS

Exhibit 1: Nine Factors of Public Safety Assessment Used to Determine Failure to Appear and New Criminal Activity Risk Level

RELATIONSHIP BETWEEN RISK FACTORS AND PRETRIAL OUTCOMES

| Risk Factor | FTA | NCA | NVCA |
|--|-----|-----|------|
| 1. Age at current arrest | | X | |
| 2. Current violent offense | | | X |
| <i>Current violent offense & 20 years old or younger</i> | | | X |
| 3. Pending charge at the time of the offense | X | X | X |
| 4. Prior misdemeanor conviction | | X | |
| 5. Prior felony conviction | | X | |
| <i>Prior conviction (misdemeanor or felony)</i> | X | | X |
| 6. Prior violent conviction | | X | X |
| 7. Prior failure to appear in the past two years | X | X | |
| 8. Prior failure to appear older than two years | X | | |
| 9. Prior sentence to incarceration | | X | |

Note: Boxes where an "X" occurs indicate that the presence of a risk factor increases the likelihood of that outcome for a given defendant.

Source: Laura and John Arnold Foundation, *Public Safety Assessment: Risk Factors and Formula*, at <http://www.arnoldfoundation.org/wp-content/uploads/PSA-Risk-Factors-and-Formula.pdf>.

Exhibit 1 (Continued)

HOW RISK SCORES ARE CONVERTED TO THE SIX-POINT SCALES AND NVCA FLAG

| Risk Factor | Weights |
|--|---------------------------------------|
| Failure to Appear (maximum total weight = 7 points) | |
| Pending charge at the time of the offense | No = 0; Yes = 1 |
| Prior conviction | No = 0; Yes = 1 |
| Prior failure to appear pretrial in past 2 years | 0 = 0; 1 = 2; 2 or more = 4 |
| Prior failure to appear pretrial older than 2 years | No = 0; Yes = 1 |
| New Criminal Activity (maximum total weight = 13 points) | |
| Age at current arrest | 23 or older = 0; 22 or younger = 2 |
| Pending charge at the time of the offense | No = 0; Yes = 3 |
| Prior misdemeanor conviction | No = 0; Yes = 1 |
| Prior felony conviction | No = 0; Yes = 1 |
| Prior violent conviction | 0 = 0; 1 or 2 = 1; 3 or more = 2 |
| Prior failure to appear pretrial in past 2 years | 0 = 0; 1 = 1; 2 or more = 2 |
| Prior sentence to incarceration | No = 0; Yes = 2 |
| New Violent Criminal Activity (maximum total weight = 7 points) | |
| Current violent offense | No = 0; Yes = 2 |
| Current violent offense & 20 years old or younger | No = 0; Yes = 1 |
| Pending charge at the time of the offense | No = 0; Yes = 1 |
| Prior conviction | No = 0; Yes = 1 |
| Prior violent conviction | 0 = 0; 1 or 2 = 1; 3 or more = 2 |

Source: Laura and John Arnold Foundation, *Public Safety Assessment: Risk Factors and Formula*, at <http://www.arnoldfoundation.org/wp-content/uploads/PSA-Risk-Factors-and-Formula.pdf>.

Exhibit 2: Decision Making Framework

| Decision Making Framework Matrix | | | | | | |
|---|----------------------------|----------------------------|-----------------|---------------------------|---------------------------|-------------------------|
| | NCA 1 | NCA 2 | NCA 3 | NCA 4 | NCA 5 | NCA 6 |
| FTA 1 | Release with No Conditions | Release with No Conditions | | | | |
| FTA 2 | Release with No Conditions | Release with PM | Release with PM | PSL I | PSL II | |
| FTA 3 | | Release with PM | PSL I | PSL II | PSL III with Curfew | Release Not Recommended |
| FTA 4 | | PSL I | PSL I | PSL III | Release with Sheriff's EM | Release Not Recommended |
| FTA 5 | | PSL I | PSL III | Release with Sheriff's EM | Release Not Recommended | Release Not Recommended |
| FTA 6 | | | | Release Not Recommended | Release Not Recommended | Release Not Recommended |

Source: Cook County Sheriff's Office, Sheriff's Justice Institute, *Central Bond Court Report*, April 2016, p. 7, https://www.chicagoreader.com/pdf/20161026/Sheriff_s-Justice-Institute-Central-Bond-Court-Study-070616.pdf

| DMF- Monitoring Level and Contacts | | | | |
|---|--------------------------|---------------|----------------------|--------------------------|
| Risk Level (by Color) | Monitoring Level | Phone Contact | Face-to-Face Contact | Conditions of Monitoring |
| Dark Green | Release w/ No Conditions | None | None | No |
| Light Green | Release w/PM | None | None | No |
| Yellow | PSL I | None | 1x Monthly | Yes |
| Amber | PSL II | None | 1x Biweekly | Yes |
| Light Orange | PSL III | 1x Biweekly | 1x Biweekly | Yes |
| Dark Orange | Release w/ Sheriff's EM | | | |
| Red | Release Not Recommended | | | |

Source: Cook County Sheriff's Office, Sheriff's Justice Institute, *Central Bond Court Report*, April 2016, p. 6.

APPENDIX B: COOK COUNTY BOND COURT AND JAIL DATA SOURCES

Exhibit 3: Example of Central Bond Court Disposition Audit Produced by the Clerk of the Circuit Court

Central Bond Court Disposition Audit

| May-17 | 103 | 606 | 604 | 605 | 277 | 601 | 153 | TOTAL CASES | 894 | 278 | 279 | RELS'D ON C BOND | RELS'D ON D BOND |
|-----------|-----|-----|-----|-----|-----|-------|-----|-------------|-----|-----|-----|------------------|------------------|
| 5/1/2017 | 4 | 5 | 0 | 14 | 13 | 7 | 0 | 43 | 0 | 0 | 0 | 0 | 7 |
| 5/2/2017 | 3 | 5 | 0 | 15 | 25 | 6 | 0 | 54 | 0 | 4 | 9 | 0 | 7 |
| 5/3/2017 | 3 | 10 | 0 | 21 | 11 | 18 | 0 | 63 | 0 | 15 | 10 | 0 | 15 |
| 5/4/2017 | 1 | 6 | 1 | 17 | 18 | 22 | 1 | 66 | 0 | 6 | 8 | 3 | 21 |
| 5/5/2017 | 2 | 13 | 1 | 15 | 22 | 32 | 0 | 85 | 0 | 15 | 3 | 1 | 34 |
| 5/6/2017 | 3 | 7 | 2 | 104 | 40 | 22 | 0 | 178 | 0 | 0 | 0 | 0 | 33 |
| 5/7/2017 | 0 | 3 | 0 | 28 | 21 | 99 | 0 | 151 | 0 | 0 | 0 | 1 | 91 |
| 5/8/2017 | 6 | 15 | 1 | 13 | 12 | 13 | 0 | 60 | 0 | 50 | 25 | 0 | 24 |
| 5/9/2017 | 1 | 9 | 0 | 15 | 28 | 14 | 0 | 67 | 0 | 6 | 8 | 0 | 14 |
| 5/10/2017 | 1 | 9 | 0 | 20 | 17 | 15 | 0 | 62 | 0 | 15 | 10 | 0 | 16 |
| 5/11/2017 | 1 | 9 | 0 | 18 | 23 | 21 | 0 | 72 | 0 | 3 | 2 | 0 | 21 |
| 5/12/2017 | 0 | 3 | 0 | 14 | 14 | 24 | 2 | 57 | 0 | 0 | 0 | 2 | 21 |
| 5/13/2017 | 0 | 10 | 1 | 36 | 36 | 95 | 0 | 178 | 0 | 0 | 0 | 1 | 113 |
| 5/14/2017 | 7 | 7 | 1 | 104 | 42 | 33 | 0 | 194 | 0 | 0 | 0 | 0 | 43 |
| 5/15/2017 | 3 | 9 | 0 | 6 | 20 | 20 | 1 | 59 | 0 | 49 | 42 | 0 | 27 |
| 5/16/2017 | 1 | 4 | 0 | 10 | 20 | 23 | 0 | 58 | 0 | 9 | 10 | 0 | 22 |
| 5/17/2017 | 2 | 4 | 0 | 24 | 23 | 18 | 0 | 71 | 0 | 16 | 4 | 10 | 54 |
| 5/18/2017 | 0 | 6 | 0 | 20 | 13 | 18 | 0 | 57 | 0 | 11 | 8 | 0 | 20 |
| 5/19/2017 | 8 | 6 | 0 | 13 | 24 | 24 | 0 | 75 | 0 | 6 | 6 | 0 | 47 |
| 5/20/2017 | 0 | 7 | 1 | 43 | 23 | 70 | 1 | 145 | 0 | 0 | 0 | 1 | 61 |
| 5/21/2017 | 0 | 5 | 1 | 54 | 15 | 74 | 0 | 149 | 0 | 0 | 0 | 0 | 71 |
| 5/22/2017 | 3 | 7 | 2 | 13 | 11 | 41 | 0 | 77 | 0 | 39 | 22 | 0 | 43 |
| 5/23/2017 | 2 | 1 | 0 | 7 | 8 | 21 | 0 | 39 | 0 | 7 | 2 | 0 | 22 |
| 5/24/2017 | 1 | 4 | 0 | 14 | 5 | 28 | 0 | 52 | 0 | 4 | 4 | 1 | 45 |
| 5/25/2017 | 5 | 10 | 2 | 17 | 10 | 42 | 0 | 86 | 0 | 2 | 5 | 2 | 73 |
| 5/26/2017 | 6 | 2 | 0 | 9 | 11 | 39 | 0 | 67 | 0 | 5 | 5 | 0 | 39 |
| 5/27/2017 | 10 | 10 | 6 | 38 | 27 | 87 | 0 | 178 | 0 | 0 | 0 | 0 | 96 |
| 5/28/2017 | 2 | 4 | 2 | 64 | 22 | 107 | 0 | 201 | 0 | 0 | 0 | 0 | 140 |
| 5/29/2017 | 2 | 4 | 7 | 49 | 19 | 81 | 0 | 162 | 0 | 0 | 0 | 0 | 125 |
| 5/30/2017 | 2 | 6 | 1 | 19 | 10 | 28 | 0 | 66 | 0 | 46 | 30 | 0 | 66 |
| 5/31/2017 | 2 | 9 | 1 | 18 | 12 | 33 | 0 | 75 | 0 | 0 | 0 | 0 | 170 |
| ----- | | | | | | | | | | | | | |
| DIST TOT | 81 | 209 | 30 | 852 | 595 | 1,175 | 5 | 2,947 | 0 | 308 | 213 | 22 | 1,581 |

- 103 - Nolle Pros
- 606 - No Bail
- 604 - Bond to Stand
- 605 - I-Bonds
- 277 - EMI
- 601 - D-Bonds
- 153 - C-Bonds
- 894 - Electronic Monitor
- 278 - Admit to Sheriff EM Prg
- 279 - Not Admitted to EM Prg

Exhibit 4: Example of Sheriff's Daily Report



Sheriff's Daily Report
8/31/2017

| Under the Custody of the Sheriff | |
|---|--------------|
| TOTAL MALE AND FEMALE | 9,634 |
| Jail Population | 7,446 |
| Community Corrections | 2,188 |
| Jail Population | |
| TOTAL MALE AND FEMALE | 7,446 |
| Division 2, Division 3 Annex, Division 6, Cermak, Division 08 RTU, Division 9, Division 10, Division 11 - Male Population | 6,661 |
| Division 4, Cermak, Division 08 RTU - Female Population | 436 |
| Division 15 - Outside Counties | 145 |
| Division 15 - Hospital | 4 |
| Court-Ordered Programming Within Jail Custody | |
| Division 16 - VRIC (Court Ordered) - Male Population | 20 |
| Division 3 Annex, Division 2, Division 6, Division 08 RTU - PRC (Court Ordered Drug Treatment Program) - Male Population | 136 |
| Division 4 - Women's Residential (Court Ordered Drug Treatment Program) | 44 |
| Community Corrections Population | |
| TOTAL MALE AND FEMALE | 2,188 |
| Electronic Monitoring (Court Ordered) | |
| Men | 1,942 |
| Women | 228 |
| M.O.M.s Program (Court Ordered) | 0 |
| VRIC Post Release (Court Ordered) | 18 |

Exhibit 4 (Continued)



Cook County Department of Corrections Executive Director's Log

Thursday, August 31, 2017

Prepared By: Larry Beck

| | | |
|----------------|--------------|-------------|
| Totals: | 7,446 | 100% |
| Male | 6,966 | 94% |
| Female | 480 | 6% |

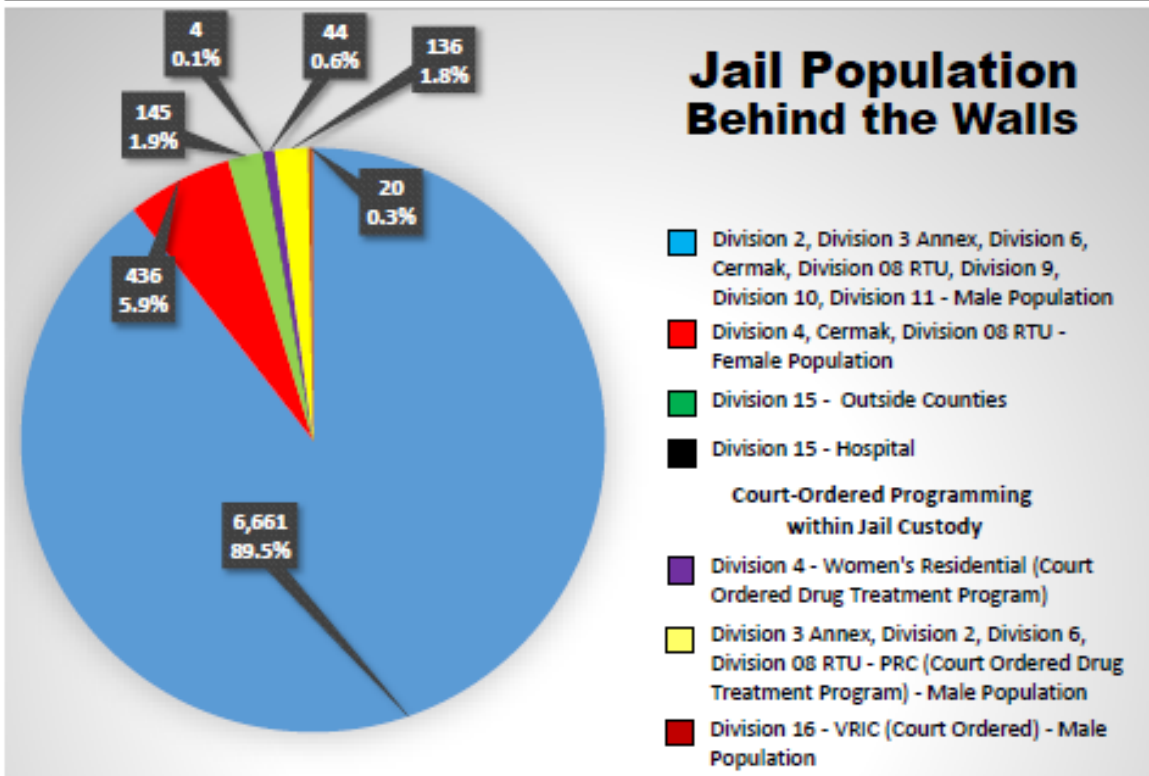
| | Male | Female | Total | Capacity | No Place To Stay |
|-----------------------|--------------|------------|--------------|---------------|------------------|
| Div 1 | 0 | - | 0 | 1,250 | 0 |
| Div 2 | 1,935 | - | 1,935 | 1,960 | 72 |
| Div 3 | 0 | - | 0 | 360 | 0 |
| Div 3-Annex | 0 | - | 0 | 768 | 0 |
| Cermak | 107 | 10 | 117 | 148 | 2 |
| Div 4 | - | 250 | 250 | 552 | 2 |
| Div 5 | 0 | - | 0 | 992 | 0 |
| Div 6 | 934 | - | 934 | 992 | 8 |
| Div 08 | 644 | 176 | 820 | 979 | 32 |
| Div 9 | 979 | - | 979 | 1,066 | 2 |
| Div 10 | 701 | - | 701 | 768 | 5 |
| Div 11 | 1,497 | - | 1,497 | 1,536 | 6 |
| Div 17 W. Residential | - | 44 | 44 | 152 | 0 |
| Div 15 - HP | 4 | - | 4 | - | 1 |
| VRIC In Camp | 20 | - | 20 | - | 0 |
| Outlying Counties | 145 | - | 145 | - | 0 |
| Totals: | 6,966 | 480 | 7,446 | 11,523 | 130 |

Exhibit 4 (Continued)



Sheriff's Daily Report
8/31/2017

| Under the Custody of the Sheriff | |
|----------------------------------|--------------|
| TOTAL MALE AND FEMALE | 9,634 |
| Jail Population | 7,446 |
| Community Corrections | 2,188 |



Q. What does Behind the Walls mean?

A. The behind the walls jail population is physically housed under the Sheriff's custody 24 hours a day/7 days a week. This includes all the populations listed on the key above and pie chart to the left - Divisional populations male & female, Outside Counties, Hospital, PRC, Women's Residential, & VRIC. Detainees in court-ordered treatment programs (PRC, Women's Residential, VRIC) are housed at CCDOC 24 hours a day/7 days week.

APPENDIX C: EXAMPLES OF PUBLIC BOND COURT AND PRETRIAL DATA FROM OTHER JURISDICTIONS

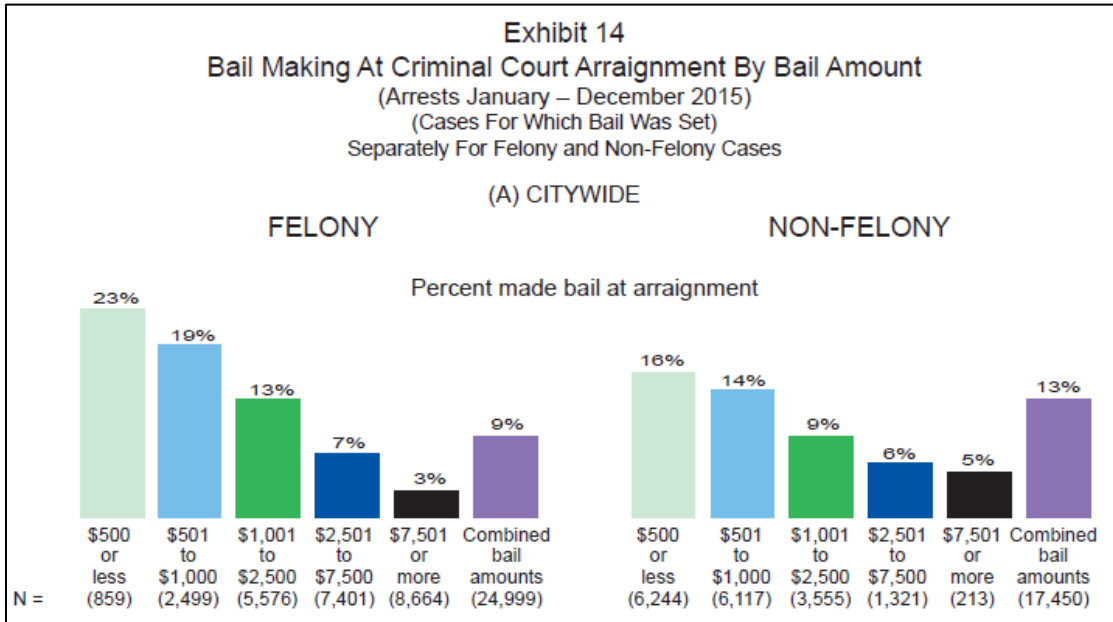
Exhibit 5: Money Bail Amounts and Percentage of Defendants Who Post Bond (Harris County, Texas)

| | Misdemeanor A/B * | | | | | Felony * | | | | |
|-------------------|--------------------|--------------------|----------------------------|------------------------------|------------------------------|--------------------|-------------------|---------------------------|-----------------------------|-----------------------------|
| | bail amt at filing | % of all misd defs | misd defs with bond posted | % misd defs posting bond amt | % misd defs with bond posted | bail amt at filing | % of all fel defs | fel defs with bond posted | % fel defs posting bond amt | % fel defs with bond posted |
| Less than \$500 | 4 | 0.01% | 4 | 100.0% | | 1 | 0.003% | 0 | 0.0% | |
| \$500 | 13,321 | 26.1% | 11,097 | 83.3% | | 4 | 0.01% | 3 | 75.0% | |
| \$501-\$1,999 | 11,500 | 22.6% | 8,803 | 76.5% | | 10 | 0.03% | 13 | - | |
| \$2,000 | 2,592 | 5.1% | 1,514 | 58.4% | | 4,207 | 13.0% | 2,760 | 65.6% | |
| \$2,001-\$4,999 | 6,735 | 13.2% | 3,450 | 51.2% | | 369 | 1.1% | 235 | 63.7% | |
| \$5,000-\$9,999 | 11,532 | 22.6% | 4,970 | 43.1% | | 4,333 | 13.4% | 2,899 | 66.9% | |
| \$10,000-\$19,999 | 1,116 | 2.2% | 504 | 45.2% | | 8,389 | 26.0% | 3,380 | 40.3% | |
| \$20000 | 24 | 0.05% | 21 | 87.5% | | 1,303 | 4.0% | 921 | 70.7% | |
| > \$20000 | 54 | 0.1% | 68 | - | | 4,404 | 13.6% | 2,442 | 55.4% | |
| 88888888 | 4,059 | 8.0% | 0 | 0.0% | | 4 | 0.01% | 0 | 0.0% | |
| No bond set | 10 | 0.02% | 0 | 0.0% | | 9,241 | 28.6% | 0 | 0.0% | |
| TOTAL | 50,947 | 100.0% | 30,431 | | 59.7% | 32,265 | 100.0% | 12,653 | | 39.2% |

| Bail amount set | Total | | | | |
|-------------------|--------------------|---------------|-----------------------|-------------------------|-------------------------|
| | bail amt at filing | % of all defs | defs with bond posted | % defs posting bond amt | % defs with bond posted |
| Less than \$500 | 5 | 0.01% | 4 | 80.0% | |
| \$500 | 13,325 | 16.0% | 11,100 | 83.3% | |
| \$501-\$1,999 | 11,510 | 13.8% | 8,816 | 76.6% | |
| \$2,000 | 6,799 | 8.2% | 4,274 | 62.9% | |
| \$2,001-\$4,999 | 7,104 | 8.5% | 3,685 | 51.9% | |
| \$5,000-\$9,999 | 15,865 | 19.1% | 7,869 | 49.6% | |
| \$10,000-\$19,999 | 9,505 | 11.4% | 3,884 | 40.9% | |
| \$20000 | 1,327 | 1.6% | 942 | 71.0% | |
| > \$20000 | 4,458 | 5.4% | 2,510 | 56.3% | |
| 88888888 | 4,063 | 4.9% | 0 | 0.0% | |
| No bond set | 9,251 | 11.1% | 0 | 0.0% | |
| TOTAL | 83,212 | 100.0% | 43,084 | | 51.8% |

Source: Harris County Pretrial Services 2015 Annual Report, p. 8, <https://pretrial.harriscountytexas.gov/Library/2015%20Annual%20Report.pdf>

Exhibit 6: Percentage of Defendants Able To Pay Bail at Bond Hearing by Bail Amount (New York City)



Source of Exhibits 6-9: New York City Criminal Justice Agency Annual Report 2015, pp. 16, 19, 23, 31, http://www.nycja.org/lwdcms/doc-view.php?module=reports&module_id=1577&doc_name=doc.

Exhibit 7: Percentage of Defendants Able To Pay Bail at Bond Hearing by Charge Severity (New York City)

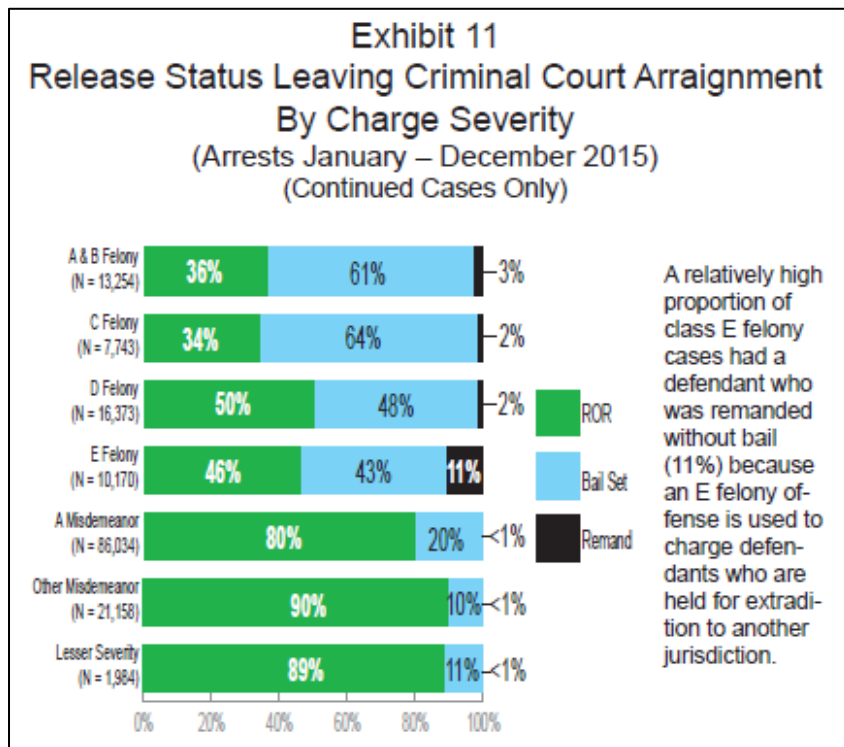


Exhibit 8: Release Recommendation by Charge Severity (New York City)

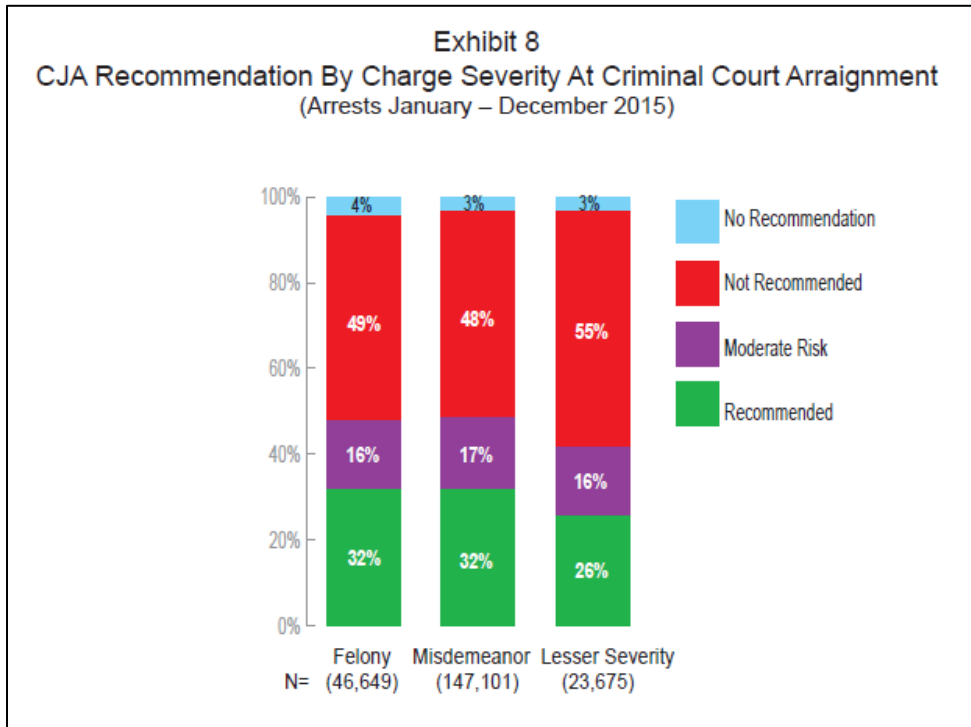
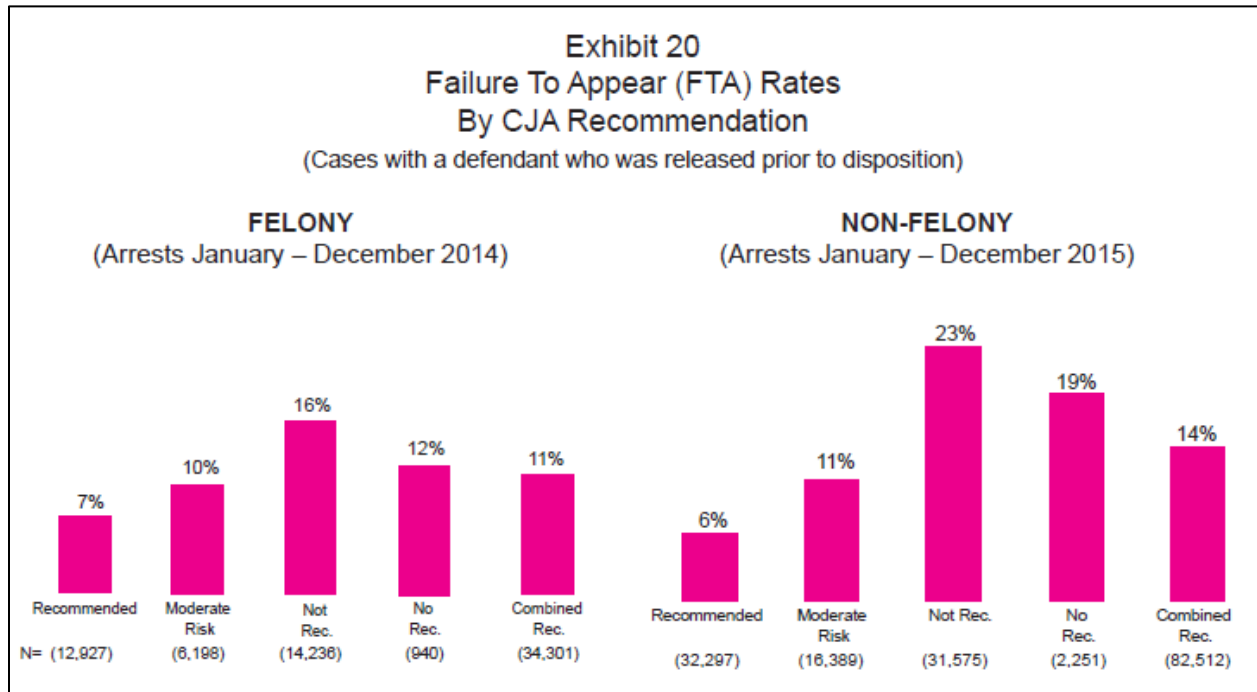
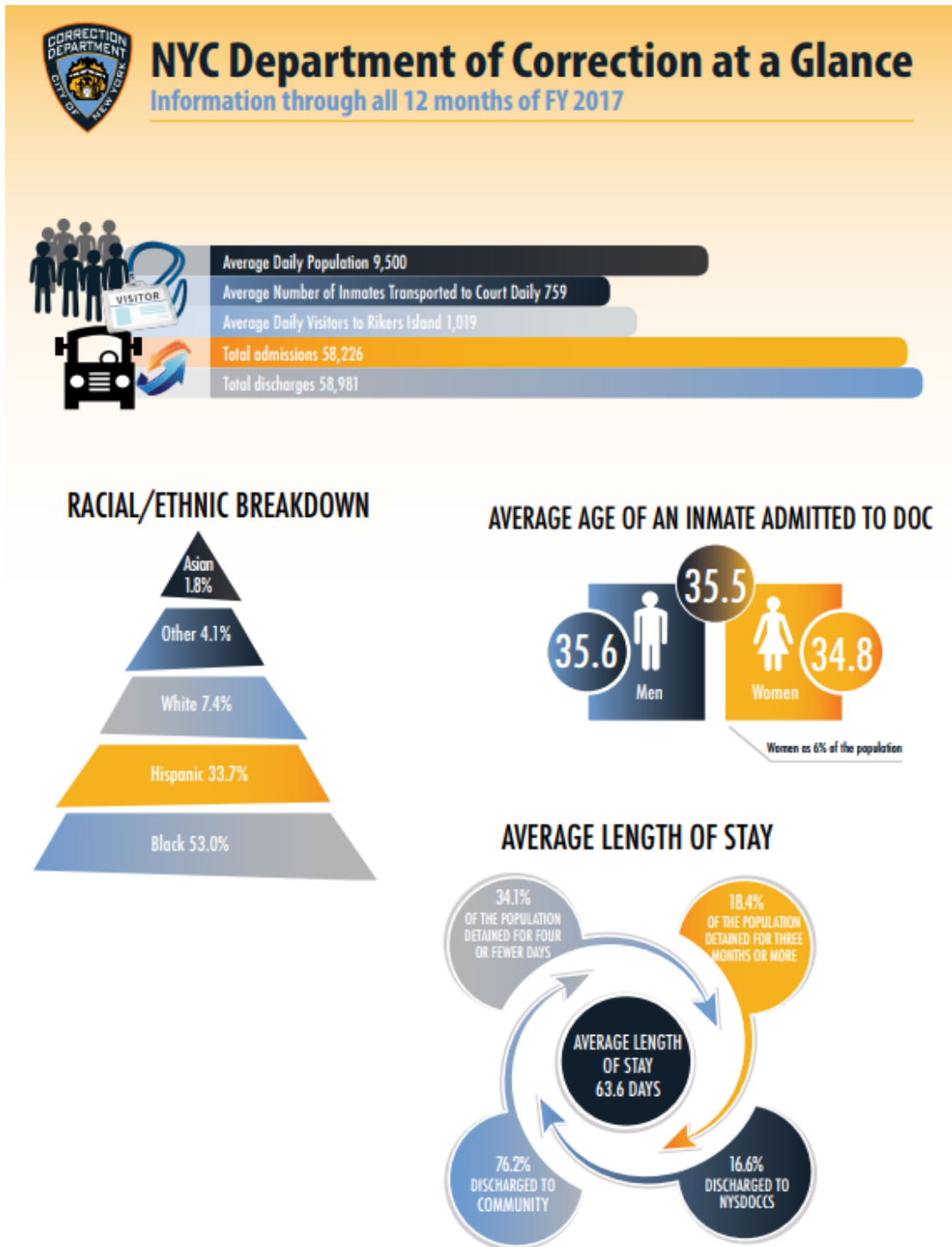


Exhibit 9: Failure to Appear Rates by Pretrial Release Recommendation (New York City)



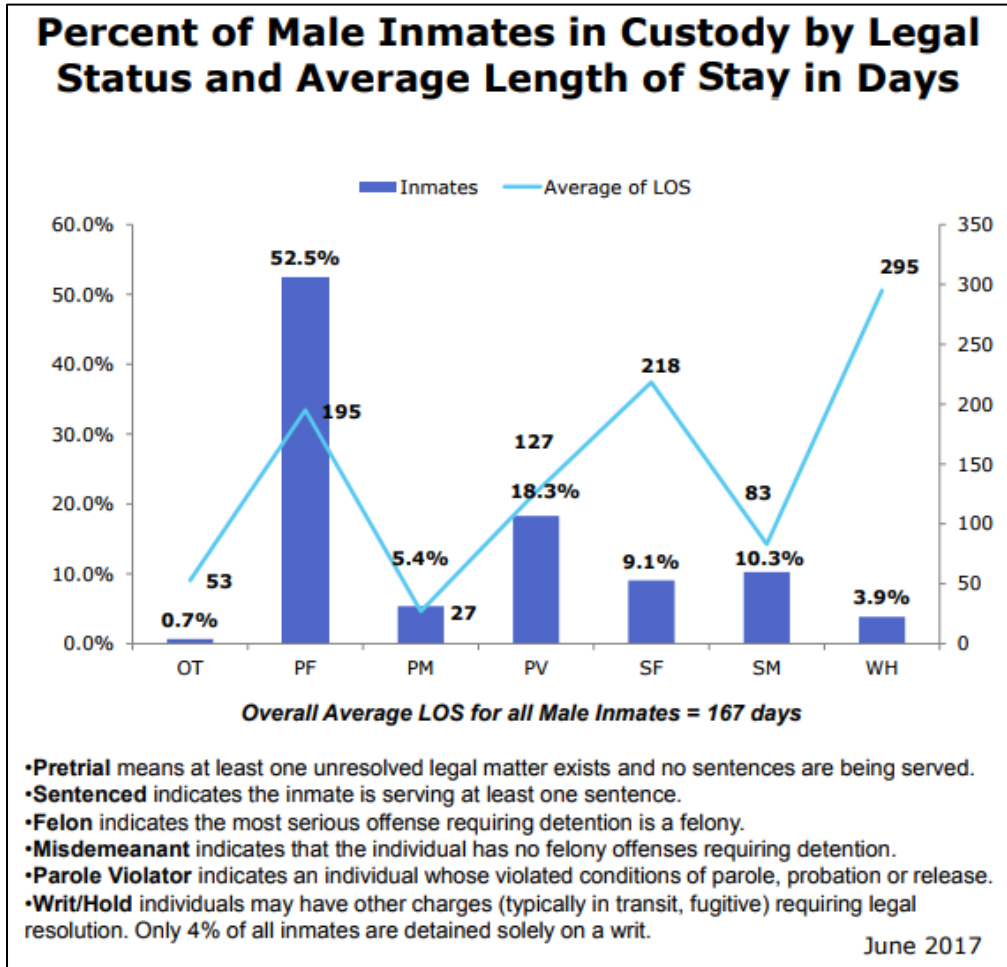
APPENDIX D: EXAMPLES OF PUBLIC JAIL DATA FROM OTHER JURISDICTIONS

Exhibit 10: New York City Department of Corrections at a Glance, FY2017



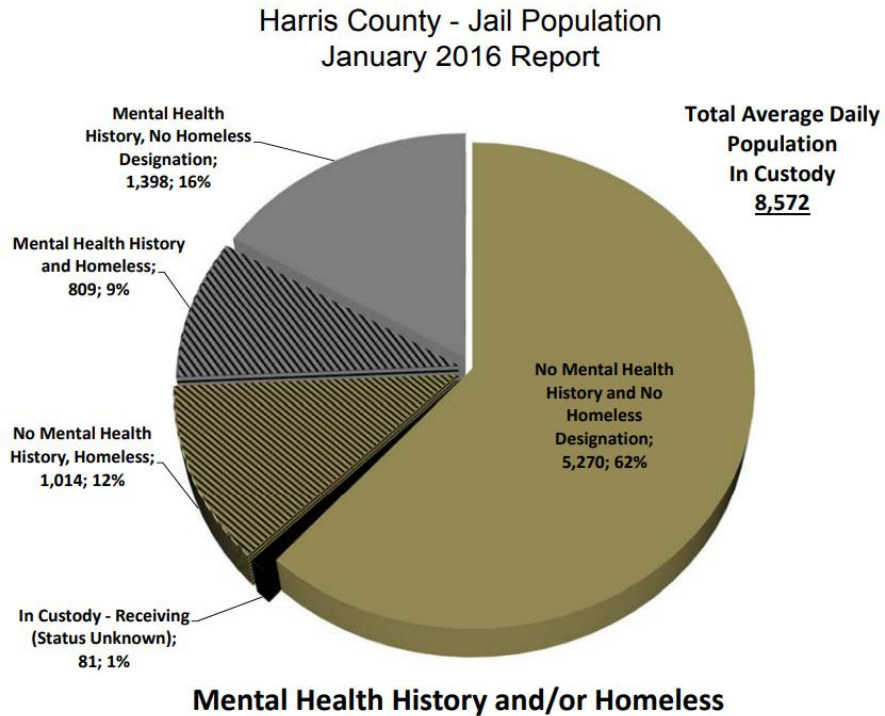
Source: https://www1.nyc.gov/assets/doc/downloads/pdf/DOC_At_a_Glance-9-14-17.pdf

Exhibit 11: Male Inmates by Custody Status and Average Length of Stay (Washington, D.C.)



Source: Washington, D.C. Department of Corrections Facts and Figures, June 2017, <https://doc.dc.gov/node/344892>.

**Exhibit 12: Jail Population by Mental Health History and/or Homelessness
(Harris County, Texas)**



Source: Harris County Jail Population Report, January 2016, p. 5, https://cjcc.harriscountytexas.gov/Documents/Jail%20Population%20Presentation%20and%20Graphs%202016_01.pdf.

**Exhibit 13: Daily Jail Population by Assessed Risk Level
(Mecklenburg County, North Carolina)**

Table 6: Assessed Risk Level

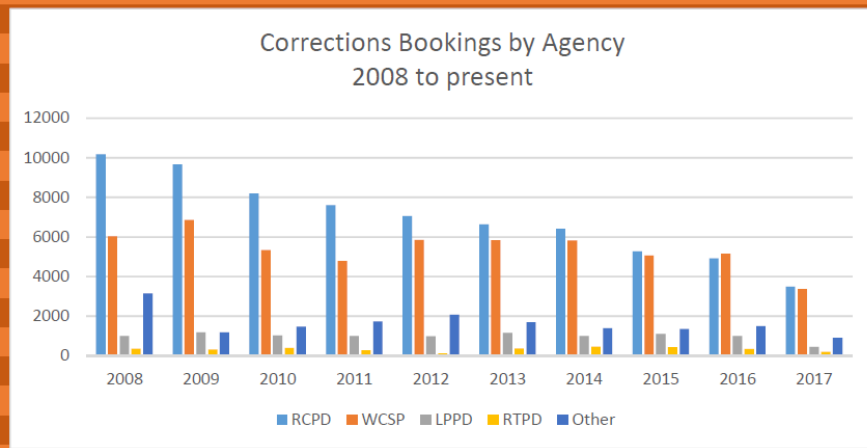
| Assessed Risk Level | Jan – Mar 2017 Assessments | Oct – Dec 2016 Assessments | Jan – Mar 2016 Assessments | Percent Change From | |
|--------------------------|----------------------------|----------------------------|----------------------------|---------------------|----------------|
| | | | | Oct - Dec 2016 | Jan – Mar 2016 |
| Low Risk | 603 (19%) | 551 (19%) | 611 (20%) | 9% | -1% |
| Medium-Low Risk | 235 (7%) | 238 (8%) | 233 (8%) | -1% | 1% |
| Medium Risk | 726 (23%) | 625 (22%) | 634 (21%) | 16% | 15% |
| Medium-High Risk | 430 (13%) | 392 (14%) | 429 (14%) | 10% | 0% |
| High Risk | 1,231 (38%) | 1,068 (37%) | 1,076 (36%) | 15% | 14% |
| Total Assessments | 3,225 (100%) | 2,874 (100%) | 2,983 (100%) | 12% | 8% |

Source: Mecklenburg County Jail Population Trend Report for January-March 2017, p. 5, <https://www.mecknc.gov/CriminalJusticeServices/Documents/Jail%20Population/Population%20FY17%20Q3.pdf>

Exhibit 14: Annual Bookings Statistics (Winnebago County, Illinois)

| Winnebago County Corrections Bureau Bookings by Agency 2008-Present | | | | | | | | | | |
|--|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|-------------|
| | 2008 | 2009 | 2010 | 2011 | 2012 | 2013 | 2014 | 2015 | 2016 | 2017 |
| RCPD | 10174 | 9662 | 8182 | 7594 | 7046 | 6636 | 6408 | 5257 | 4910 | 3483 |
| WCSP | 6014 | 6849 | 5337 | 4784 | 5851 | 5818 | 5814 | 5049 | 5145 | 3364 |
| LPPD | 985 | 1166 | 1022 | 983 | 968 | 1139 | 986 | 1092 | 978 | 429 |
| RTPD | 352 | 311 | 384 | 257 | 118 | 359 | 443 | 421 | 337 | 184 |
| Other | 3143 | 1165 | 1464 | 1724 | 2063 | 1677 | 1393 | 1337 | 1484 | 900 |
| total | 20968 | 19153 | 16839 | 15342 | 16046 | 15629 | 15044 | 13156 | 12854 | 8360 |

** 2017 data yr to date



Source: Winnebago County Sheriff's Office, Bookings by Agency 2008-Present, http://www.winnebagoheriff.com/index.php?option=com_docman&task=doc_download&gid=767&Itemid=156.