



A Year in 16B

CourtWatch STL bears witness to the harms of the criminal
legal system

CourthWatch STL
October 25, 2022

Introduction

Jail should not be a death sentence. Since April 2022, six people have died while detained inside St. Louis City's Justice Center (CJC) : Robert Lee Miller (April 28, 2022), Augustus Collier (July 8, 2022), a person whose street name was Nelly Boo (August 10, 2022), Donald Henry (September 3, 2022), Courtney McNeal (September 6, 2022), and one person whose name and date of death is unknown.

Although the causes of these deaths remain shrouded in unnecessary mystery, each day members of Freedom Community Center's CourtWatch witness the actors of the 22nd Judicial Circuit (judges, prosecutors and others) laying the foundation for torturous state violence to be enacted on our community members.

In the past year, FCC's CourtWatchers observed the systemic injustices of the pretrial process, arbitrary bail requests and the

unjust pretrial detention of people legally presumed innocent in the 22nd Judicial Circuit in St. Louis, Missouri. The consequences of these injustices can be life and death.

As the chorus of voices, made up of those incarcerated at the City Justice Center (CJC), their families and loved ones, civil rights advocates, defense attorneys, community members and even survivors of violence has grown louder, demanding action in the face of tortuous conditions at CJC, the actors in the 22nd Judicial Circuit have turned their backs on the people they supposedly represent. They have doubled down on inhumane pretrial practices.

For example, the Circuit Attorney's Office (CAO) recommended that people be held without bond 88% of the time. In fact, if it were up to the CAO at least 263 more people would have been jailed without bond from June 2021 to June 2022. This would have increased the jail population by nearly 50% in the last year.

Disproportionately, the people targeted by this system are Black and poor. Over 80% of the accused people were Black despite Black people making up only 45% of St. Louis City's population. The criminal legal system continues to target Black and poor people at alarming rates.

Judges and prosecutors consistently cite “public safety” as the dominant reason for their recommendations and decisions in bail hearings. There is little evidence, however, that pretrial detention and incarceration produces public safety. In fact, there is growing evidence that incarceration makes violence even more likely in our communities. Incarceration makes our communities less safe.

In total, we witnessed 1,315 people cycle through 1,810 bail hearings from June 2021 to June 2022. We saw 1,315 people's lives and futures dramatically altered by a hearing that lasted an average of 10 minutes.

Importantly, we also observed the ways the decisions made in the courtroom affected the lives of the thousands of people who care for and love the 1,315 people who went in front of a judge in the past year. Jail not only hurts the people being caged, but the entire community of people around them.

This report provides a window into the shadowy areas at the front door to the criminal punishment system known, in St. Louis, as Division 16B, the courtroom where bail hearings take place. The report provides a window into the way the decisions made in that courtroom affect the lives of people who are our neighbors, friends and loved ones.

The data we collect are more than simply numbers on a page. The data reflect the lived experiences of people targeted by the criminal punishment system in our city—targeted by the criminal punishment system in our names.

A note on language: So much of what we see in court is a system set up to punish someone accused of a crime, whether or not they are innocent. In an effort to destigmatize and respect the assumed innocence of those facing charges we use the word “accused” rather than “defendants” and “complaining witness” instead of “victim”. While retelling stories from court, we use pseudonyms to protect the identity of the accused and their loved ones.

For those unfamiliar with the criminal legal process: check out this resource, which provides a look into the various components that make up the machinery of criminal legal proceedings.

Inside



Mental Health and Medical Needs

Judges routinely deny bond to people with overwhelming health needs, including mental, medical and substance-related needs. After attorneys communicate that the accused have not received their medication since being booked in jail, judges still deny bond regularly.

In August and September of 2022, in cases where a mental health need was presented, the accused was held on no bond allowed 68% of the time.

Attorneys and loved ones consistently communicate to judges that people being held with ongoing health needs are actively getting worse. Some judges respond with concern, but many others claim that it is not their responsibility to respond to these issues. Judges, however, have myriad tools for responding including releasing

people to community organizations that provide high quality health resources to people released to their care.

Instead, judges regularly direct accused people to communicate with Correctional Officers (COs) to rectify the issue. The COs are the issue in the first place, but Judges routinely ignore that, holding people without bond.

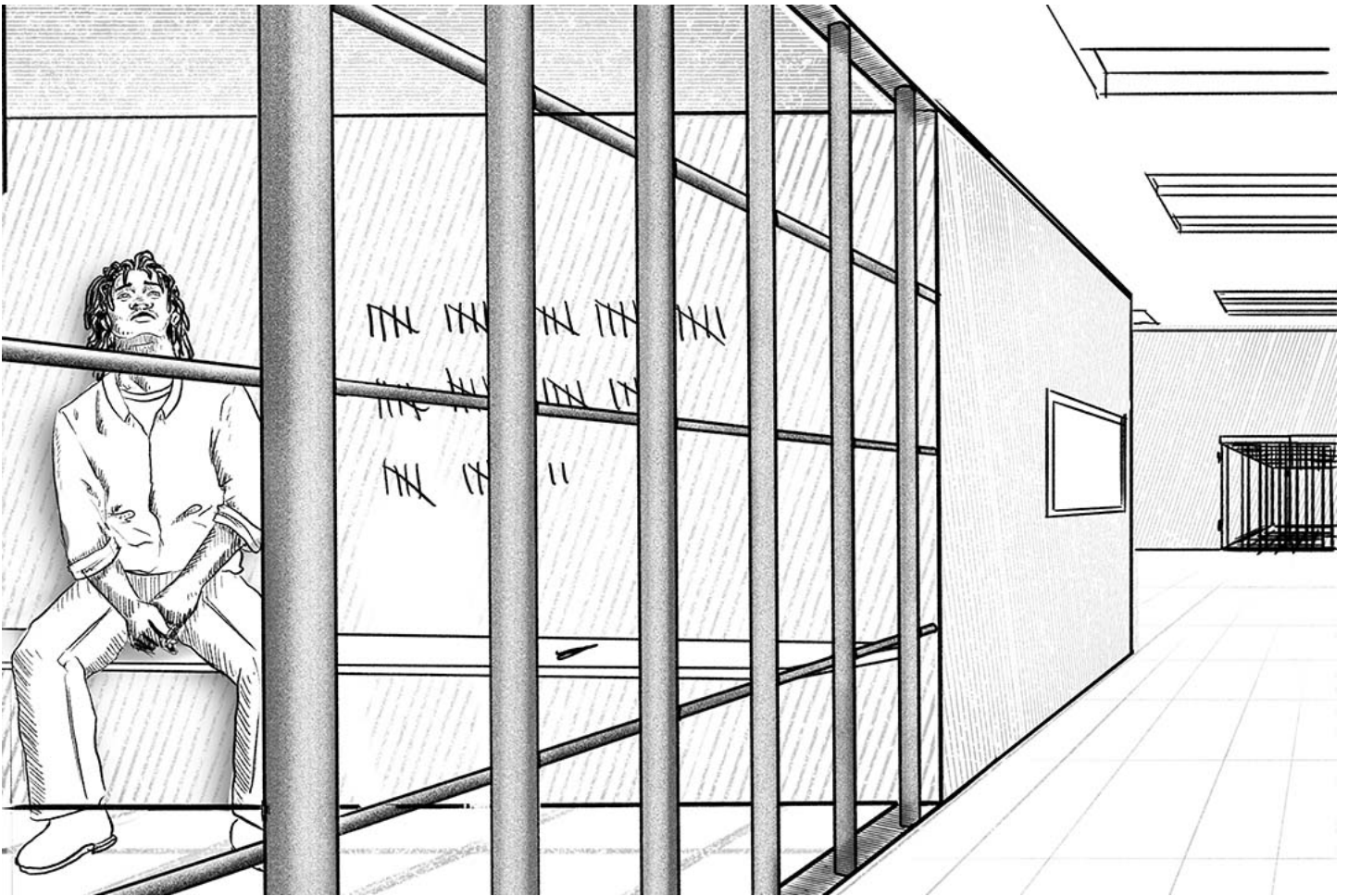
We have seen folks who've been held for weeks say:



“I don't know what is going on, I need my meds.”

Jail is proven to worsen people's medical and mental well being rather than improve it. Furthermore, having a loved one or family member incarcerated has been shown to negatively effect the mental health of the person on the outside as well. The effects of incarceration compound to make our communities less healthy and less safe.

Despite these facts, the CAO and the judges endanger public health and safety by holding people who should be receiving care from community members and community-based organizations.



Delayed Hearings

Typically, in St. Louis City, people who are arrested receive their first bail hearing within 24-48 of arrest. If they are not released after 6 days, then they have a second bail hearing. This is supposed to ensure that people are not needlessly held in pretrial detention. In practice, however, our CourtWatchers witness delayed hearings take place regularly.

The reasons given range from being held in isolation due to a positive COVID test to a judicial “conflict of interest” to the jail being on lockdown. Rather than prioritizing those who are sick and holding a digital hearing in order to free sick people needing medical attention, people are held for weeks until testing negative. This lack of care and an inability to socially distance oneself in a jail, mean that other incarcerated people are more likely to get sick while an individual is awaiting their bail hearing.

In addition to those delays, certain judges conduct the two hearing process differently, meaning that depending on the judge an individual may only have one bail hearing rather than two which dramatically reduces their chances of pretrial freedom.

These unnecessarily delayed hearings and inconsistency of process further expose people to the torturous state violence of CJC. One person incarcerated pretrial explained the conditions:

Jessie*



My name is Jessie and I was locked up at the St. Louis City Justice Center. I lost all my rights when I was there. I didn't even get a phone call and I couldn't call my family, they had no idea where I was. The Correctional Officers would use bear mace on us, you could feel it whenever they sprayed it in the unit. The mace was so strong it would burn our skin and eyes. It made me cough so hard it hurt. Officers would also arbitrarily shut off water to our cells for hours."*



Teens in Court

This past year, we noticed a surge in teens brought in on adult charges and held without bond at CJC. Some of them were 15 years old.

In the words of one mother at her child's hearing:

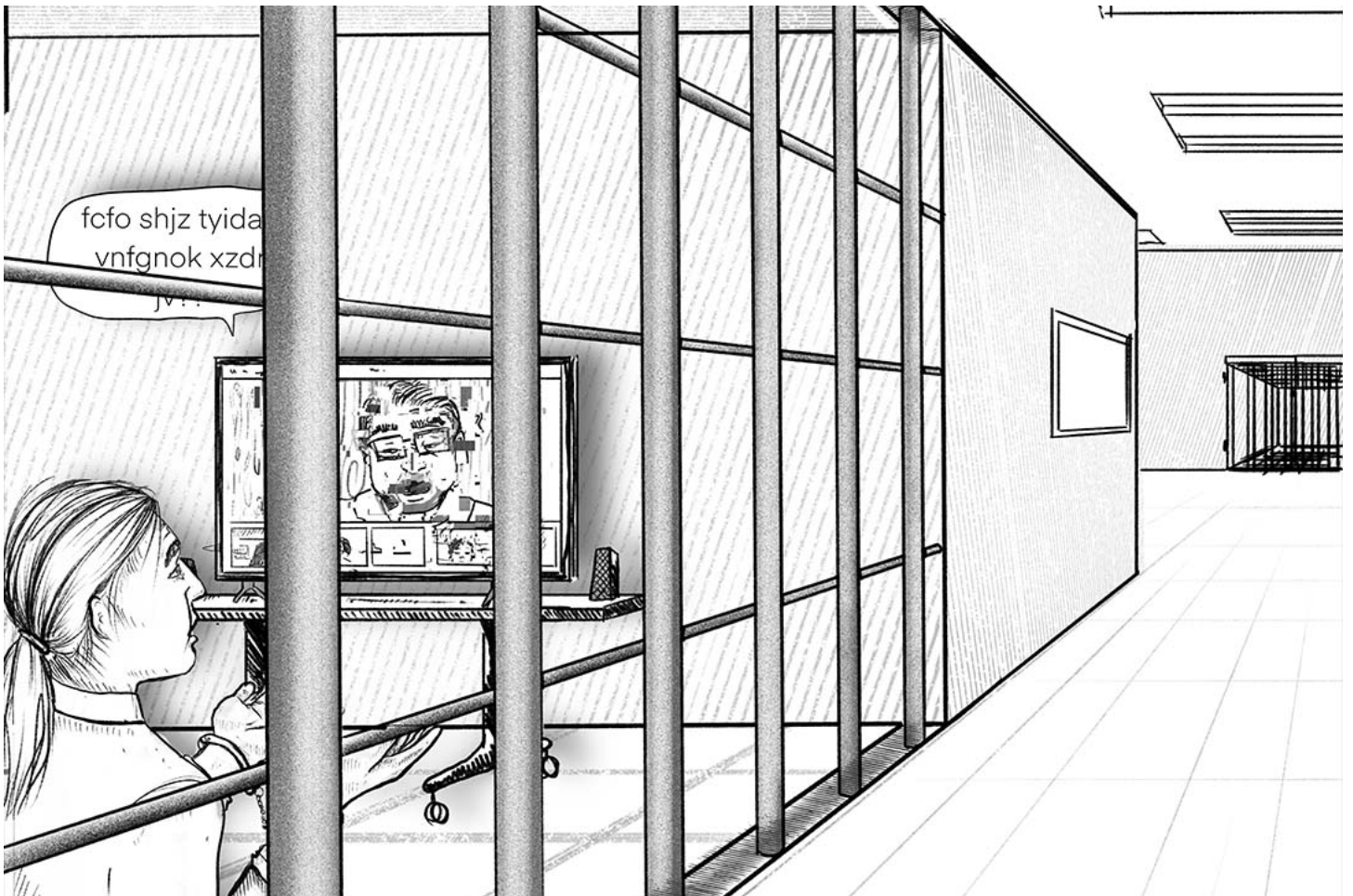


How is holding them in an adult prison going to do anything but expose them to more danger?"

The youngest teens we see come from the juvenile detention center. They are held at CJC in an effort to punish them for acting out at the juvenile detention center.

Dameon*

CourtWatchers witnessed a 17 year old, Dameon, brought straight from the juvenile detention center to CJC. He had significant medical needs. Dameon's family came to his initial bond appearance, and they filled the entire front row hoping he would be released to live at home. If released, he could go back to school, get in touch with a counselor and be surrounded by love and support while fighting his charges. At one point his sister sobbed because she didn't understand why her brother had been gone for so long. The judge denied his bond.



Lost in Translation

Non-english speakers experience unique forms of injustice within the pretrial process. In St. Louis, we watch people have hearings delayed several weeks before a translator can be procured. This delay exposes people to the tortuous conditions of CJC just because they don't speak english.

Even with the assistance of a translator, we witness non-english speakers struggling to understand what is taking place because the judge is moving too fast or the zoom meeting glitches. Many people have not applied for public defenders by the time they do have a hearing because there aren't public defender applications available in their language.

While being held pre-trial is a confusing experience for most, not being able to speak English makes the process dramatically unfair and unequal.



Public Defender Application Delays

High quality representation in a criminal court case can mean the difference between freedom or years in jail. Studies show that early proceedings in criminal cases can have a dramatic effect on the outcome of that case. Unfortunately, in the 22nd Judicial

Circuit, there is not nearly enough emphasis on securing representation for accused people.

Our CourtWatchers witnessed repeated delays in people being assigned attorneys, some going without representation at their first or second bail hearing. We witnessed people unable to fill out the public defender application because of mental illness, being a non-English speaker or having literacy challenges. Furthermore, when people do fill out the application for a public defender, there is often a significant delay in the assignment of that attorney, leaving the person in limbo during one of the most consequential periods of their case.

Malik*

Malik did not have a pretrial intake interview due to being in medical isolation when he was initially arrested. He remained in isolation for two weeks and had no bail hearings during that time. By the time he finally got to his 16B hearing, the state-appointed attorney had no information to use to advocate on his behalf during their bail hearing due to the lacking pretrial intake form. By Malik's second bail hearing he had been held in jail for over a month and still did not have representation. It is unclear if he had even been given a public defender form to fill out.

Though the changes to the bail hearing process in the past few years altered the pretrial landscape for the better, the accused in St. Louis City are still represented by state-appointed attorneys in 78% of bail hearings. This is a group of private attorneys contracted by the Court to represent someone facing charges for the purpose of the bail hearing only.

They get access to their client-for-the-day's case file the morning of the hearing, have never met their client, and for the majority of cases do not have the opportunity to speak with their client privately away from the ears of the prosecution and judge. Further, each state appointed attorney is different. While the

majority defend their client to the best of their abilities, Courtwatchers have seen one attorney in particular refuse to speak on the behalf of their client, allowing only the argument of the prosecutor to inform the judge's decision. That is NOT representation.

Outside



What are the collateral consequences of being held without bond?

We sit among the family members and loved ones of the accused during 16B bail hearings. We hear heartbreaking pleas for the release of fathers, sons, sisters, and friends. If people are held without bond, they lose their jobs, housing, transportation, and healthcare benefits. Sometimes, they lose their children because of a short stay in jail. While people incarcerated are stripped of

their main sources of stability, family members and loved ones are left scrambling to pick up the pieces. Families must cobble together funds to replace lost income, take care of children and elderly adults, or pay for the costs of legal defense. The people we sit with are disproportionately poor Black and brown people whose survival is dependent on that incarcerated person. The system doubles down on the violence it enacts on Black and brown people by caging legally innocent people pretrial.

Alisha's story illustrates the potential collateral consequences of being held without bond for her and for her family.

Alisha*

Alisha, a 19 year old, faced judge Burke one day in court. She had no prior adult criminal history and her mother died that month on Mother's day, leaving her to care for her 3 younger siblings. She was working multiple jobs to support their family, as a 19 year old. The prosecuting attorney described the supposed danger of this 19 year old woman, arguing that that she posed a danger to the community. The judge agreed and ruled "no bond allowed". Alisha immediately cried out,



What about my siblings?"

Alisha could have lost her jobs, the main source of income for her and her siblings. She could have lost her house, left homeless with 3 younger siblings. This would have meant she and her three younger siblings were stranded without a home, without food, without income to support themselves.

Thankfully, because of advocacy done by CourtWatchers, community members and the Freedom Community Center, the judge later reconsidered and released Alisha to Freedom Community Center's group track program. Recently, Alisha graduated from FCC's program. During her time with us, she was

able to secure employment, apply for college, and provide for her siblings. She did not have any interactions with the criminal legal system. After her graduation, her charges were dropped.

The collateral consequences of being held without bond ultimately make our communities less safe by destabilizing people in precarious economic and social situations. Studies have shown over and over that pretrial incarceration and its consequences make our communities less safe. We demand a different approach.

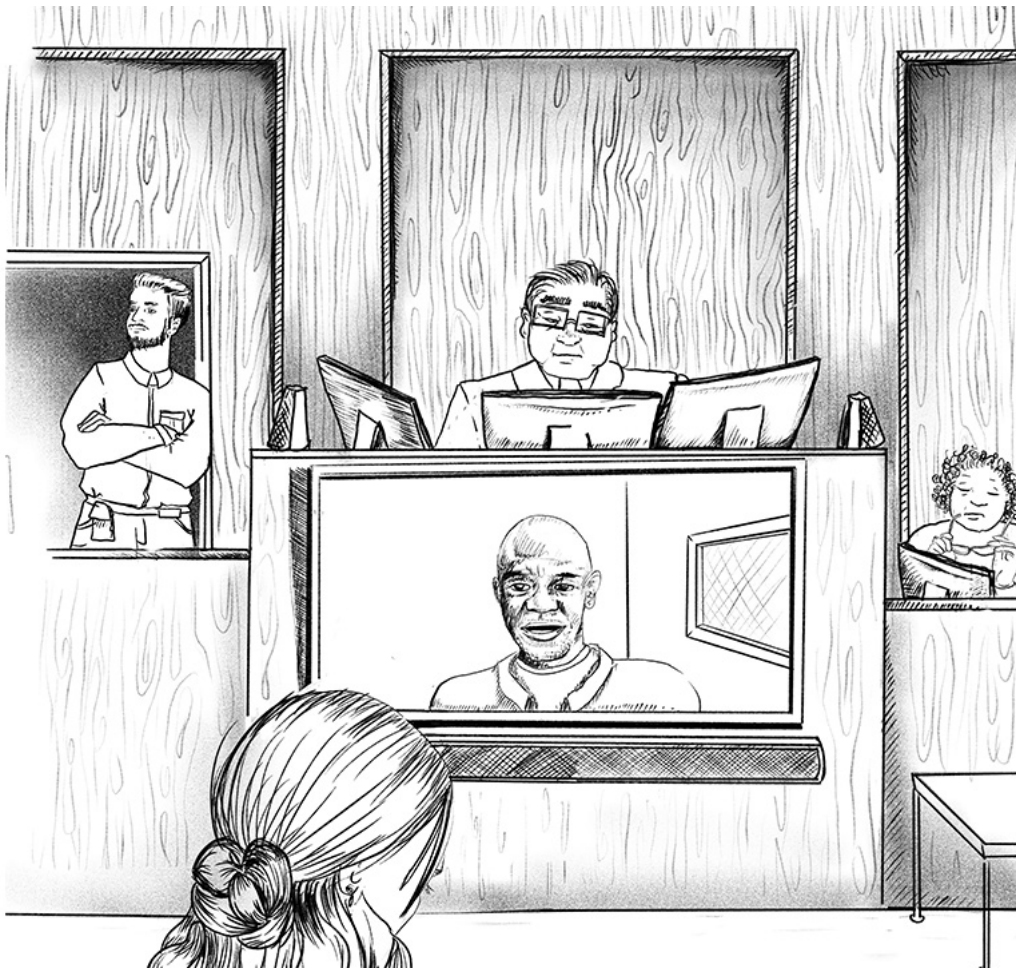


What happens when the Complaining Witness doesn't want the accused to stay in Jail?

The prosecutor's office tells us that they represent the interests of the victims. They claim they are defenders of survivors of violence. In court, however, it's not clear that the prosecutor's office is always dedicated to the interests of the "victim," especially when those interests conflict with pursuit of incarceration.

Our CourtWatchers often see complaining witnesses testify that they want the accused person to be set free. The complaining witnesses frequently say that the accused person needs mental health counseling, substance use support, job training or some other form of support that is NOT incarceration.

When this happens, the prosecutor often still recommends that the judge detain the accused person because of “power dynamics” or supposed danger to the community. **The prosecutors explicitly deny the wishes of the complaining witness because they are interested in punishment rather than true safety.**



Racial violence of the system

The criminal legal system targets and disappears poor Black and Brown people from our communities. We witness this vicious racial violence each day in 16B.

In the past year, we saw 5x more Black women than white women in bail hearings, and 6x more Black men than white men in bail hearings.

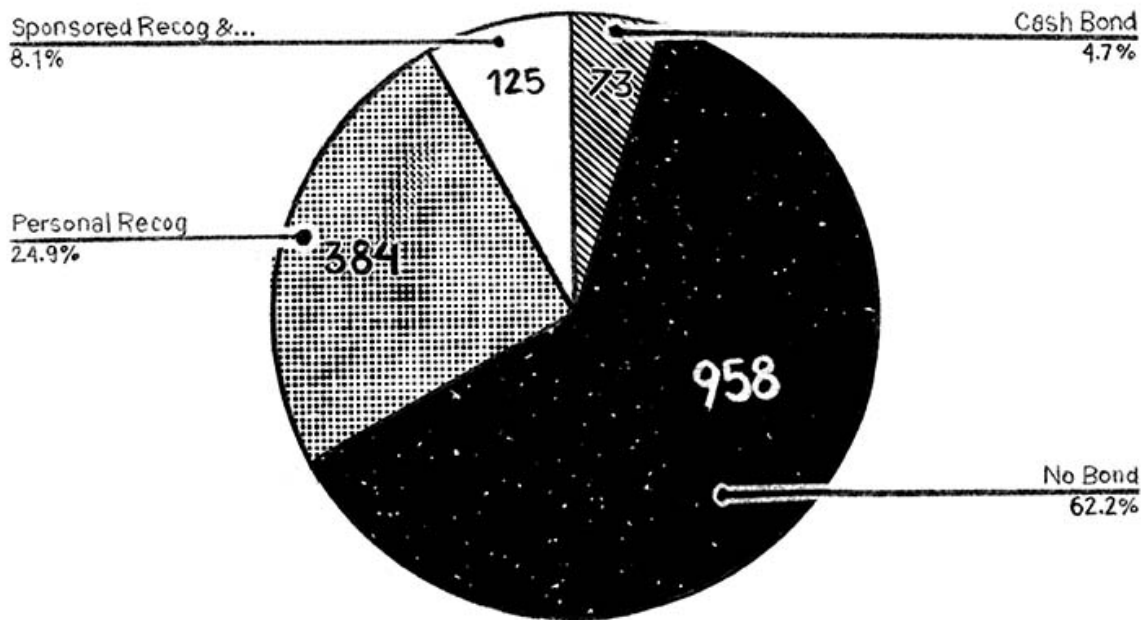
On one occasion, four men with the same top charge were seen in one day. The only one who was released was white.

In another instance, two women were facing similar allegations, one was white and the other Black. In the determination for the white woman facing charges, the defense attorney beckoned the judge to consider that she would “lose everything.” The Black woman facing charges was ostracized for being “an irresponsible mother” for the fact that she was picked up on this case. The white woman was released. The Black woman was held without bail.

The visual makeup of the courtroom is a stark reminder of the racial violence that is fundamental to the functioning of the criminal legal system. It’s not uncommon that every power-holding system player, the judge, the prosecutor, and defense attorney is white while every single person facing charges is Black or Brown. **In essence, the courtroom is a room full of white people deciding the futures of Black people and their families.**

Data

June '21-June '22 Pre-Trial Data



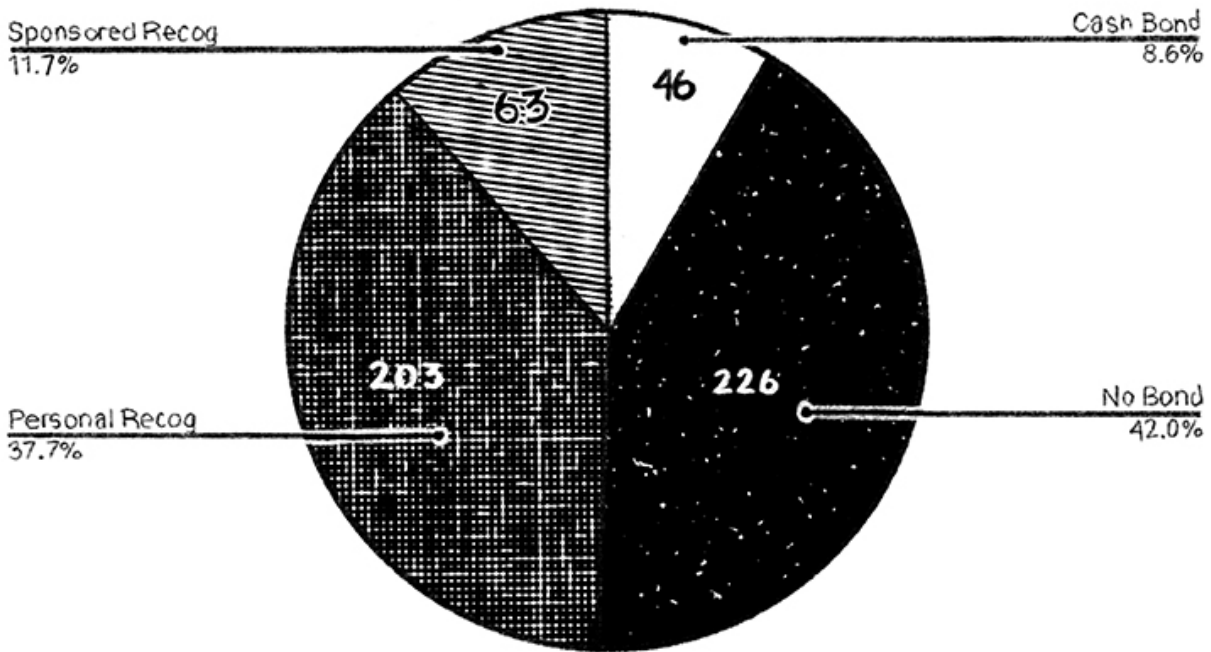
62% of the time judges are choosing to hold people without bond.

In one year's time, we observed close to 1,000 hearings where judges made a final decision to hold someone without bond. These same judges only consider release without a monetary condition about 33% of the time.

Our courts have replaced the overuse of unaffordable cash bail with an overuse pretrial jailing. Release is supposed to be the baseline, not the exception.

Note: We use hearing level data to describe the frequency with which judges assign no bond allowed because in each hearing judges have an opportunity to release a person or send them to jail. Because of St. Louis pretrial process, they may have another hearing in seven days, but those seven days could mean loss of a job, housing and other collateral consequences of pretrial detention.

Jan-June '22 PreTrial Data Per Person



The difference in decision making patterns by different judges translated to a total of at least 138 people receiving a bond or release during their second hearing who were initially denied bond at their first hearing in the past year.

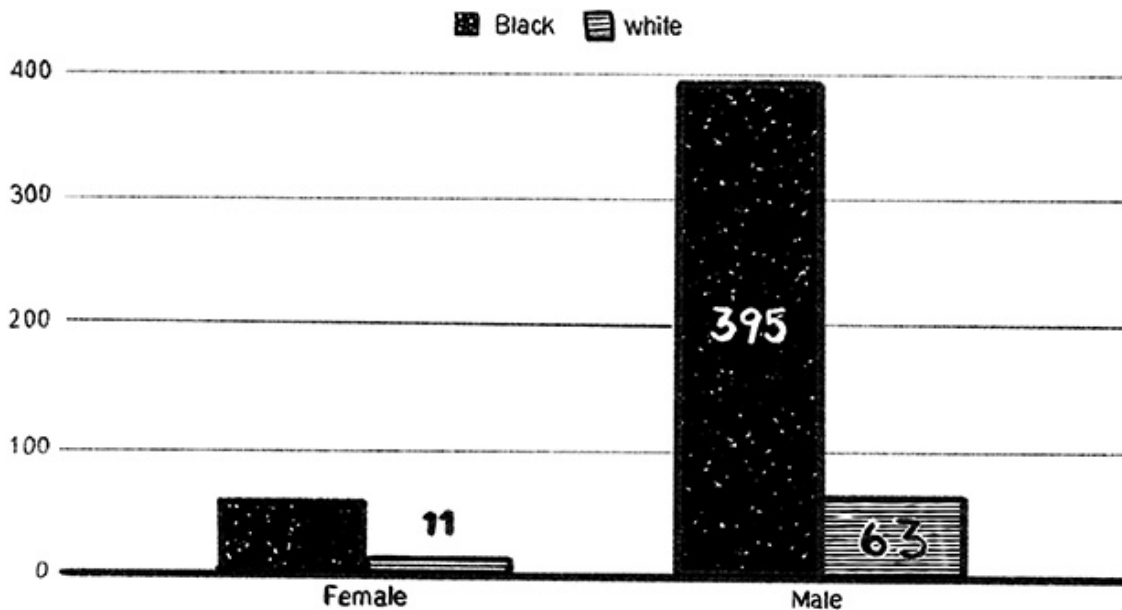
There is a key difference between this set of findings and the first set of findings. In the first set of data, we see no bond determination by hearing. In this set of data, we see the ultimate bond decision in an individual's case. You will notice that no bond allowed in this dataset is 42%, and in the first dataset it was 62%. On the one hand, this is promising because it shows that ultimately more people are released following their second hearing. The issue is that people are forced to endure 7 days in pretrial detention, when they could have been released at their first hearing.

This disparity in findings demonstrates two important facets of the pretrial process.

1. **A higher percentage of people should be released at their first hearing.** Seven days in jail awaiting a second hearing can tear apart someone's life and the lives of their loved ones. If people are "safe to be released" according to the court at the second hearing, they are also "safe to be released" at the first hearing.

2. **Judges make dramatically different decisions in the pretrial context.** A major contributor to the difference in release from the first to second hearing is that the judges rotate each week in 16B. The same person appearing in front of two different judges can receive completely different results. Take a look at [this graphic](#) which shows no bond allowed rates by judges over the past six months to see more evidence of disparities between judges.

Jan-June '22 Racial/Gender Demographic Disparities

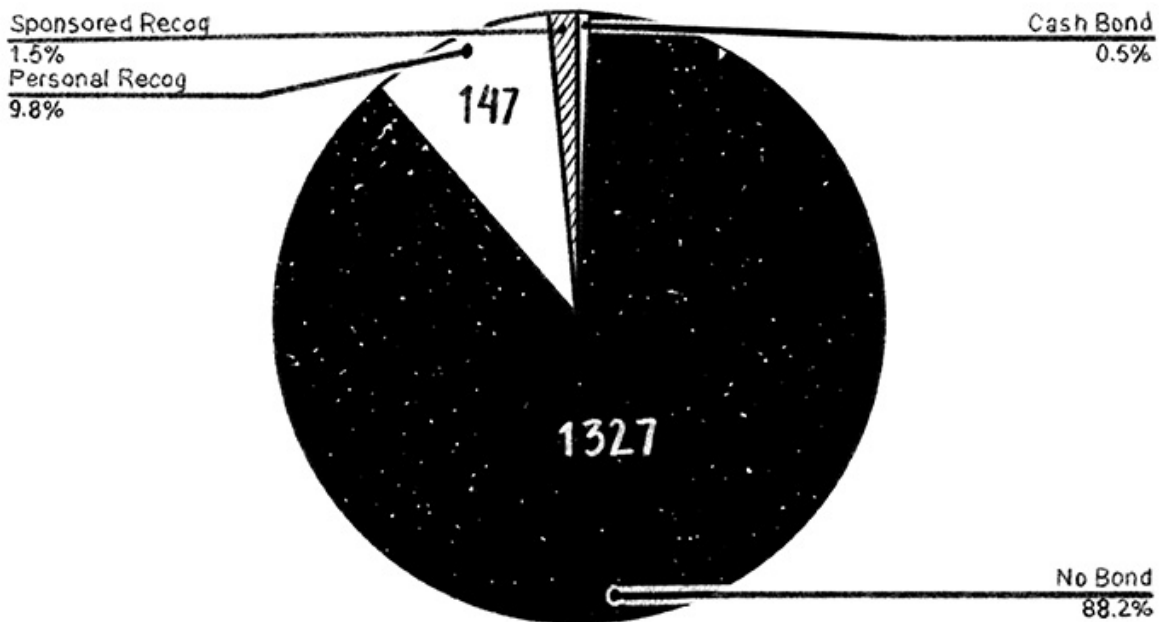


Despite the city's population being 45% Black, from June 2021 to June 2022, 82% of the people facing charges in bail hearings were Black.

From January to June of 2022, Courtwatchers saw **5x more Black women go through bail hearings than white women and 6X more Black men than white men.** These disparities are even greater than those we witnessed from June to December of 2021.

Black people are not more likely to participate in criminalized activity than white people, and yet the criminal legal system continues to target and punish poor Black people at alarming rates.

June '21- June '22 Prosecutor Bond Rec Hearings



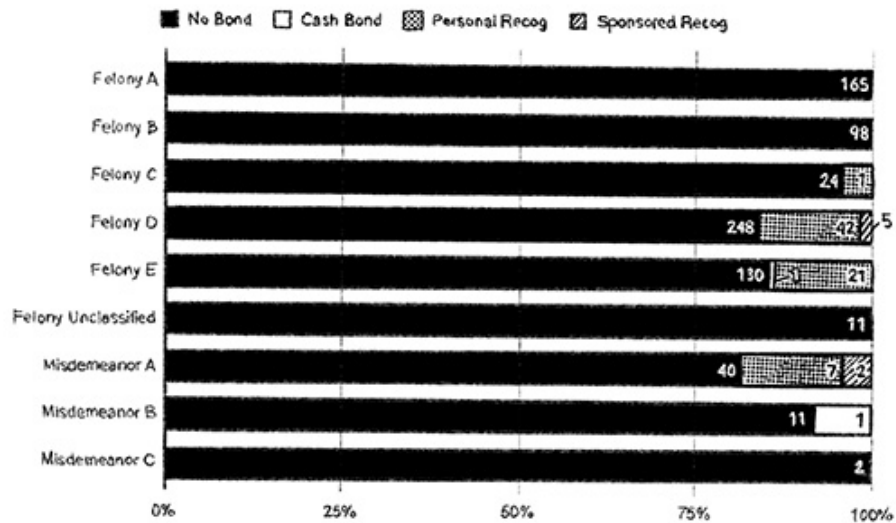
If it were up to the Circuit Attorney at least 263 more people would have been jailed without bond from June 2021 to June 2022.

In the hearings we observed from June 2021 through June 2022 the St. Louis City Circuit Attorney Kim Gardner’s office recommended release with or without monetary conditions less than 200 times TOTAL.

Prosecutors fuel the jail crisis.

Despite being labeled as a “progressive prosecutor,” the Circuit Attorney’s Office consistently recommends no bond for almost every case. Unwilling to assess the factors of individual cases or to consider other options for release that might be more humane and ultimately lead to more safety, the CAO doubles down on punishment for people who are presumed innocent under the law.

Prosecutor Bond recommendation by top charge past 6 months, Jan - June 2022 by hearing



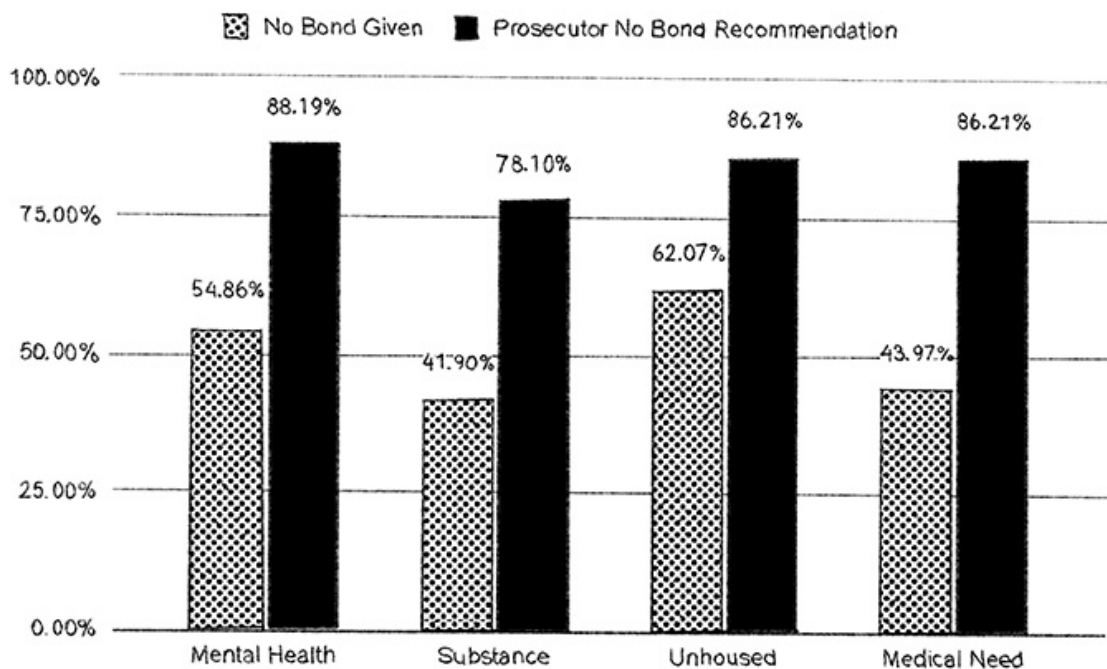
Court Watchers observed the prosecutor argue No Bond Allowed for cases with top charges of A and B

Misdemeanors, cases which are likely to be sentenced with short or no jail time.

The pretrial average length of stay in the city sits at 357 days. The prosecutors are using no bond for people whose sentence would ultimately be less than the time they wait for their sentencing hearing because they know that people who are incarcerated will be more likely to plead guilty whether or not they are guilty of the charges.

Studies repeatedly show that pretrial incarceration results in people pleading guilty simply to get out. This is most common on lower level charges. The prosecutor is using pretrial incarceration to coerce guilty pleas, even on the lowest level charges.

No Bond for People with identified needs by person



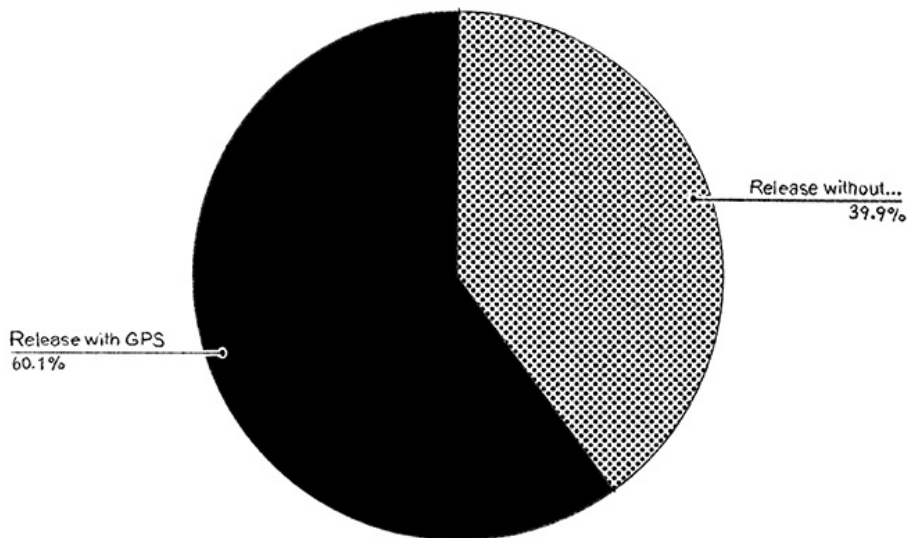
In cases where the accused had a health need, the prosecutor's office recommended to hold them without

bond more than 80% of the time.

From January to June of 2022 we tracked people who displayed or were presented as having some sort of health need; including mental health, substance use, medical need or housing need. AT LEAST 144 people moving through bail hearings presented a mental health need, 105 people presented a substance use need, 116 people presented a medical need and 29 people stated that they were unhoused.

Caging someone with pressing mental health, substance use and medical needs exacerbates their underlying condition. Continuing to rely on incarceration as a "solution" to pressing social health needs does not create more safety. In fact, it only increases the chances of violence in our communities.

Release with and without GPS per person June 2021 - Jan 2022



Out of 534 people with a final bond of either cash bond, sponsored recognizance or personal recognizance, 60%

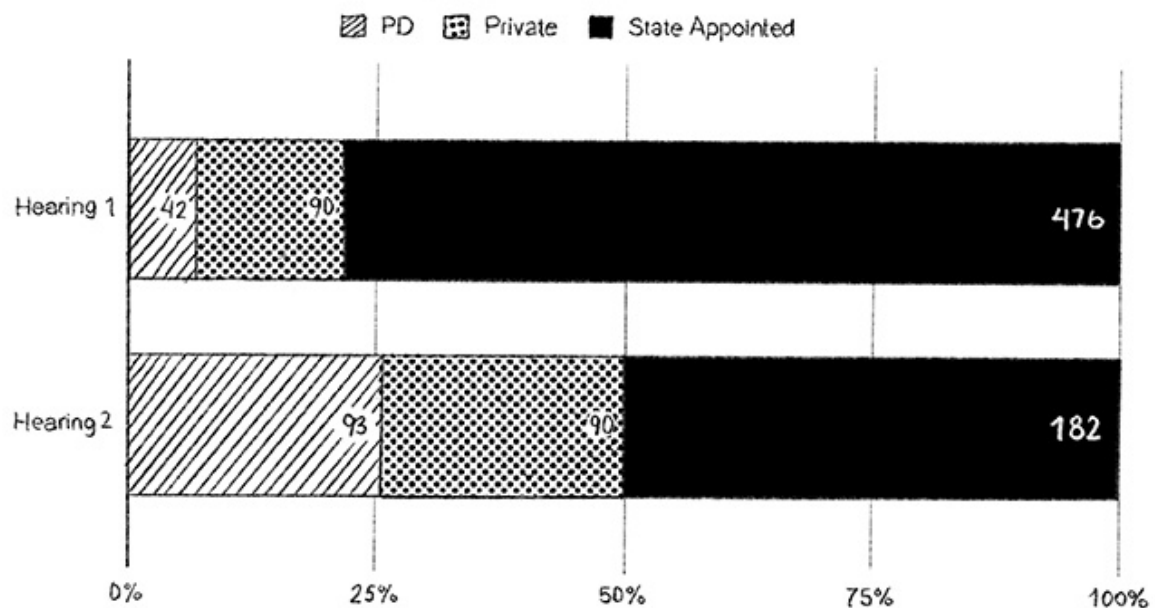
of them were conditioned to some sort of GPS monitoring.

Electronic monitoring was conditioned over half of the time when considering conditions of release.

Electronic monitoring outsources dangerous surveillance to private companies that are paid for every month a monitor is on someone's ankle. This costs close to \$300 a month. Many times, that cost falls to the accused and their loved ones to pay. People who are monitored pre-trial have reported having difficulties finding work with an ankle monitor, experiencing regular glitches from their monitor resulting in faulty violations, developing a painful rash at the site of the monitor, as well as being triggered into a constant state of stress due to the monitor.

Electronic monitoring has not been shown to make communities safer nor improve appearance rates at court. The assistant circuit attorney even said themselves during bail hearings that monitors don't do anything but alert police to someone violating an order "AFTER it happens." This is clearly not an effective tool for preventing violations pretrial, but rather it is a punitive tool that only leads to more incarceration.

Defense Attorney Type by 1st and 2nd Hearing Jan - June 2022 PD, Private and State Appointed



From January to June 2022, nearly 80% of people facing charges faced their first bail hearing represented by a state-appointed attorney.

State Appointed Attorneys (SAAs) are contracted by the court to represent someone solely for the purposes of their bail hearing. SAAs have never met with the person they are representing, and they only have the information provided to them from the court on each person the morning of the hearing. Everything they say to their client is recorded by the court reporter and heard by the judge and prosecutor (unless they request and are granted a virtual breakout room which we are now tracking and is very, very rare).

By the second bail hearing 50% of people are represented by an SAA. Ideally one of the purposes of being given a 7 day detention hearing is to have the time to be assigned a PD or hire a private attorney. This is clearly not enough time for most people moving

through bail hearings. The solution would be to provide the public defenders with enough funding, so that they could represent people at their first AND second hearings.



FCC COURTWATCH is a group of community members under the umbrella of Freedom Community Center, an organization dedicated to building a movement of survivors of harm that will meaningfully address violence in St. Louis City and collectively design alternatives to state systems of punishment. Our community will fight to end mass incarceration and advocate for transformative justice approaches to reducing harm.

Sign up to be a CourtWatcher [here](#). Donate to support our transformative work [here](#).

Illustrations

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