

# COURT WATCH

## 6 MONTH REPORT

### FREEDOM COMMUNITY CENTER

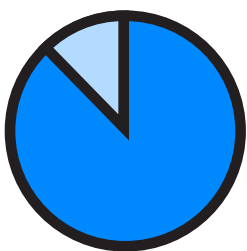
SINCE JUNE 2021, MEMBERS OF FCC COURTWATCH HAVE BORNE WITNESS TO THE SYSTEMIC INJUSTICES OF THE PRETRIAL PROCESS, ARBITRARY BAIL REQUESTS, AND THE UNJUST PRETRIAL DETENTION OF PEOPLE LEGALLY PRESUMED INNOCENT IN THE 22ND JUDICIAL CIRCUIT IN ST. LOUIS, MISSOURI.

# STL'S CRIMINAL PUNISHMENT SYSTEM:

\*JUNE - DECEMBER 2021

## 516 PEOPLE

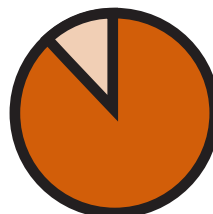
## 826 TOTAL HEARINGS



PROSECUTORS  
SEEK TO DETAIN  
**86%** OF  
PEOPLE  
WITHOUT BOND

## 294 PEOPLE WERE DETAINED WITH "NO BOND ALLOWED"

THE CIRCUIT ATTORNEY  
RECOMMENDED BOND LESS  
THAN **100** TIMES FOR  
PEOPLE CHARGED



## 84% OF PEOPLE ARRESTED IN ST. LOUIS CITY ARE **BLACK, LATINO, OR PEOPLE OF COLOR**

# INTRODUCTION

We have witnessed mothers calling out for their sons to be released. We have seen fathers in their 50s with diabetes, unable to access medical treatment in the jail and begging the judge for release, only to be denied. We have seen firsthand the doors to mass incarceration pushed open again and again by prosecutors and judges who refuse to change practices that have led to dramatic disparities in incarceration for Black and brown communities.

**DESPITE KNOWING THAT JAIL ITSELF IS MORE LIKELY TO INCREASE VIOLENCE THAN PREVENT IT — AND KNOWING THE INCREASED RISKS BLACK AND BROWN COMMUNITIES FACE FROM COVID-19 — THE CIRCUIT ATTORNEY AND JUDGES HAVE CONTINUED TO INCARCERATE PEOPLE PRETRIAL.<sup>1</sup>**

**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.

## BY WRITING THIS REPORT WE HOPE TO:

1

**CREATE TRANSPARENCY AND EDUCATE COMMUNITY MEMBERS ABOUT THE HARMS OF THE PRETRIAL AND COURT PROCESSES.**

2

**ACTIVATE COMMUNITY MEMBERS TO DEMAND A REDUCTION IN THE SIZE + SCOPE OF THE LEGAL SYSTEM WHICH ENACTS VIOLENCE ON OUR COMMUNITY MEMBERS.**

3

**ENGAGE COMMUNITY MEMBERS IN A CRITICAL ANALYSIS OF THE JUSTICE SYSTEM TO ADVOCATE FOR A FUTURE WHERE JAILS AND PRISONS ARE NO LONGER CAGING OUR COMMUNITIES.**

Each day in court our CourtWatchers witness the extraordinary violence the state continues to enact on our community members in our name. The system claims to be providing justice and safety. In reality it is punishing people and tearing families apart.

Following the successful federal class action lawsuit brought by ArchCity Defenders and other partners, strong community pressure, and the implementation of Supreme Court ruling 33.01 in 2019 — in addition to the ongoing COVID-19 pandemic — the 22nd Judicial Court has undergone dramatic changes in bail hearing practices. Here we aim to continue to assess these bail hearing practices and to push for more just and equitable processes for St. Louisans facing charges.

## JUDGES

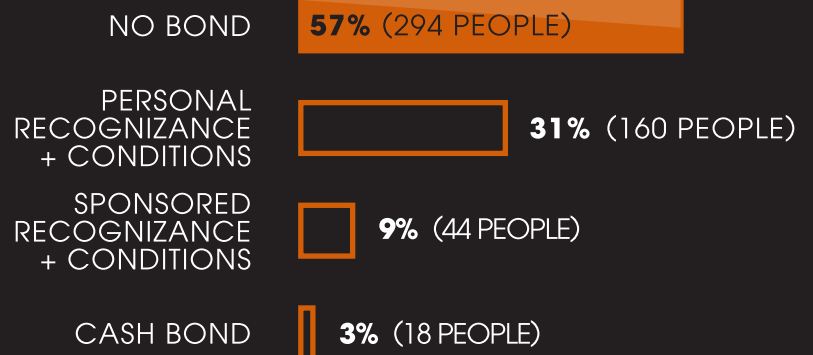
From June to December of 2021, we observed judges hold **294 people without bond** — 57% of cases. This is compared to these same judges assigning release without a monetary condition about 39% of the time.

Our courts have essentially replaced the overuse of unaffordable cash bail with an overuse of holding someone without an option of release pretrial.

### **RELEASE IS SUPPOSED TO BE THE BASELINE, NOT THE EXCEPTION.**

A different judge sits over the bail hearings each week, creating a greater diversity in decision making patterns and even greater differences in the demeanor in court. Difference in decision making translated to 51 people receiving a bond during their second hearing who were initially denied bond at their first. The difference in demeanor translated into some judges treating people facing charges with respect and patience while other judges yelled over those accused during hearings and making jokes with the prosecutor about "giving everyone 'No Bond Allowed' for the day."

## PRETRIAL DECISIONS



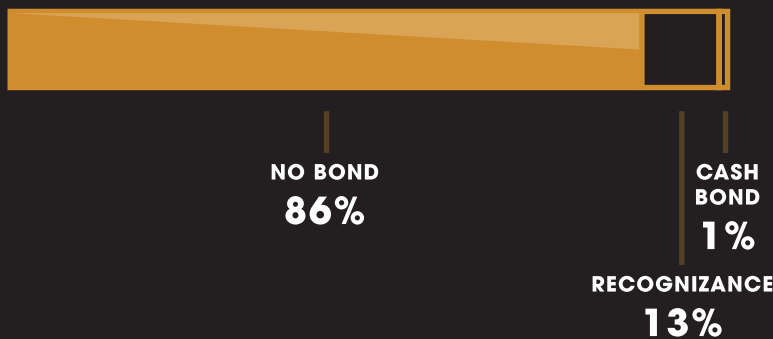
“While courtwatching, I have realized how arbitrary our justice system really is. I have seen judges deny bond to one defendant while readily offering it to another, despite their situations being arguably very similar. It’s all very disheartening, and it has undermined my confidence in both our local Circuit Attorney’s office and in our local judges.”  
- CourtWatcher Jake L.

Judges in Missouri are voted on by the public to be retained. As their terms come closer, FCC CourtWatch will work in collaboration with voting rights organizations to provide information on judge decision making patterns and demeanor to better inform the public during the next voting cycle.

## PROSECUTION

In the 826 hearings we observed from June to December, 2021, the St. Louis City Circuit Attorney Kim Gardner's office recommended release with or without monetary or other conditions **less than 100 times total.**

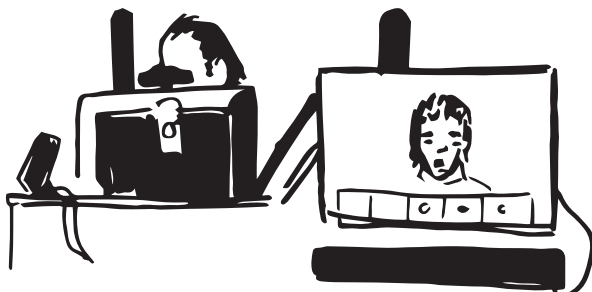
### PROSECUTOR RECOMMENDATIONS BY NUMBER OF HEARINGS



### PROSECUTORS FUEL THE JAIL CRISIS:

If it were up to the CAO, **at least 128 more people** would have been jailed without bond during this six-month period.

In the month of December alone, **the prosecutor would have caged 30 more people** without bond.



### ST. LOUIS CITY PROSECUTORS RECOMMENDED "NO BOND ALLOWED" THE MAJORITY OF THE TIME REGARDLESS OF THE TOP CHARGE TYPE.

CourtWatchers observed prosecutors regularly referring to the danger implied by the charge itself and the allegations made in probable cause statements (which are submitted by the arresting officer) when arguing "No Bond Allowed" recommendations. Rather than relying on evidence-based inquiry, we saw cases where these were the central deciding factors in the prosecutor's argument.

Charges and probable cause statements are allegations — not evidence.

There needs to be a reason outside of charges themselves to justify why detention is the least restrictive means necessary to secure the safety of the community and the accused's return to court. CourtWatchers 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 little to no jail time. When the pretrial average length of stay in the city sits at 386 days, we ask why detention is being argued for someone whose sentence would ultimately be less than the time they would wait to be sentenced? Further, lengthy pretrial incarceration results in people pleading to get out more, and this is most common on lower level charges.<sup>2</sup>

“ I’ve seen judges look over at me with my notebook nervously as they keep someone in jail. They know they’re being watched and I believe it can change their decisions.”

- CourtWatcher Chris S.

## COURT & PRETRIAL PROCESSES

People who received recognizance and cash bonds spent an average of four days in jail from the time of arrest until their release.

Some people had a bail hearing within a day of being arrested and were set for release that same day. Others had their case continued one or two weeks while awaiting an attorney's entry on their case who could more effectively argue their due release. Some stayed jailed in isolation for a week with COVID before they had an initial bail hearing at all. Some people sat caged for 43 days waiting for their sponsored recognizance bond to be signed.

For those who are denied bond, the average number of days jailed pretrial in St. Louis city is **386 days** — over one year jailed while being legally innocent.

**WHETHER IT BE 386 DAYS OR 4, ANY AMOUNT OF JAIL TIME IS A THREAT TO SOMEONE'S WELL-BEING.**



“Please, I’m not doin’ well in here, I can’t stay here, I need my meds,” one woman cried during her bail hearing.

**SHE HAD ABSOLUTELY NO PRIOR CRIMINAL HISTORY AND HAD A RECORDED DIAGNOSIS OF SEVERE BIPOLAR DISORDER.**

During her hearing she had admitted that she had been off of her medication at the time of the allegation surrounding her charge. She also shared that she had a psych caseworker at the local hospital who would help her get back on track. The judge decided to hold her without bond due to her supposed threat to society, even with the record of having no criminal issues while medicated. Further, the judge failed to order a mental health screening even while the prosecutor recommended she get one.

“Entering the court-room can be daunting. It is a place where scary, life-changing decisions are made, decisions that often can cause more hurt and harm. Going to court hearings is truly an effort that is rooted in love for community and healing. CourtWatching is a way to hold judges and city officials accountable, and a way to prove the need for alternative transformative models of justice.”

- St. Louis University Student CourtWatcher

## HEALTH DISPARITIES

In October we began explicitly tracking the number of people who displayed or were presented as having some sort of health need; be it mental health, substance use, or medical need. Out of the 389 hearings we watched from October to December, **at least 120 of the cases** presented involved an accused person with a health need.

It is difficult to track exactly who has a health need – if not mentioned explicitly by the defense or the person facing charges, CourtWatchers have to rely on physical or verbal cues through a video screen. Caging someone with pressing mental health, substance use and medical needs has been shown to deeply exacerbate their underlying condition.<sup>3</sup> When we know that these needs play deeply into the circumstance resulting in criminal charges, why do we continuously rely on a method of correction – incarceration – that is proven to worsen the underlying issue?

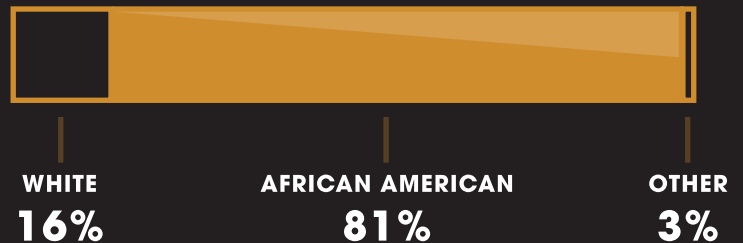
## RACIAL DISPARITIES

In 826 hearings, we saw **4x** as many Black women arrested as white women and **5x** as many Black men arrested as white men.

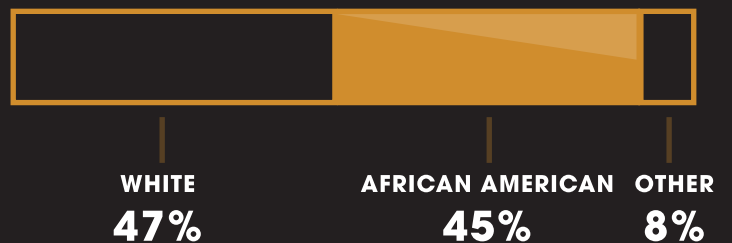
While it has been proven that Black Americans are no more likely to participate in criminalized activities than white Americans,<sup>4</sup> we see an undeniable racial disparity in the rates of arrest and incarceration in St. Louis.



### ST. LOUIS CITY ARRESTS



### ST. LOUIS CITY POPULATION



## ELECTRONIC MONITORING

Electronic monitoring was conditioned **more than half of the time** when considering conditions of release. Of the 222 people with a final bond of either cash bond, sponsored recognizance, or personal recognizance, **at least 160 of them were conditioned to some sort of GPS monitoring.**



# DEMANDS

## JUDGES:

**1 INCREASE THE NUMBER OF RELEASES**  
We demand that rule 33.01 be implemented in its true meaning — recognizing release as the assumed stance at bond hearings, and only relying on “No Bond Allowed” for only the most serious of cases.

**2 MAKE COVID+ HEARINGS SAFER**  
We demand those being held pretrial who test positive for COVID be prioritized to receive a safe, virtual hearing rather than being held in isolation as they await a negative test.

**3 ADD MORE BREAKOUT ROOMS**  
We demand the Circuit Judges of the 22nd Judicial Court incorporate the use of virtual breakout rooms for hearings in which a state appointed attorney is assigned to defend the accused.

### RELEASE? BUT WHAT IF IT'S A SERIOUS CHARGE?

When we respond to harm with more harm, we only worsen the situation. The people with the highest needs could be released to a sponsor organization or support system in order to provide the needed resources to help restore that person to a state in which they are less likely to participate in violence. In more high-needs or serious cases, we advocate for more sponsored recognizance releases.

### WHY BREAKOUT ROOMS?

Bail hearings are quasi virtual/in-person. People facing charges remain caged at the City Justice Center and are seen via WebEx video conferencing software on a screen at the 16b courtroom. Creating breakout rooms on this video conference gives the person facing charges and their attorney time to privately communicate away from the prosecutor, court reporter, and judge. Given that 75% of people who have been charged are represented by a state-appointed attorney they have never met before, this time for private consultation is critical for a fair pretrial hearing.

## PROSECUTORS:

**1 RECOMMEND RELEASE & SPONSORED RECOGNIZANCE**  
We demand the STL City's Prosecutor's office align with their stated mission to lessen the amount of people impacted by the justice system and follow the assumed stance of release on recognizance.

**2 STOP RECOMMENDING “NO BOND ALLOWED”**  
We demand that the prosecutor's office stop recommending “No Bond Allowed” for 80% of all cases.

## DEFENSE ATTORNEYS:

### EXPEDITE THE PUBLIC DEFENDER PROCESS

We demand more funding for the St. Louis City Public Defender's office — the second-least funded office in the US — in order to expand representation and prioritize the office's presence at bail hearings. As one of the most pivotal points in a criminal legal case, public defender presence at pretrial hearings improves chances for pretrial release and can have an impact on case outcomes.<sup>5</sup>

## THE MAYOR:

### DEFUND THE POLICE

The front door of the incarceration system is the police. St. Louis spends a dramatically high percentage of its budget on police — more than all the other departments combined. This police force enacts violence on our Black, brown, and poor communities at higher rates than white communities. Black people are 4.3 times as likely to have force used against them by police in St. Louis. To end this violence, we demand the Mayor reevaluate the police budget and cut significant portions of the police budget in line with the demands from the *Defund. ReEnvision. Transform.* campaign.

# COURTWATCH WITH US

HELP HOLD STL'S  
COURTS ACCOUNTABLE  
TO THE PEOPLE:

CONTACT [INFO@FREEDOMSTL.ORG](mailto:INFO@FREEDOMSTL.ORG),  
CALL [\(314\)827-3837](tel:(314)827-3837), OR HEAD TO  
[FREEDOMSTL.ORG/GET-INVOLVED](https://FREEDOMSTL.ORG/GET-INVOLVED).



To sign up for a training, scan this!

## REFERENCES:

<sup>1</sup> Custodial Sanctions and Reoffending: A Meta-Analytic Review. Damon M. Petrich, Travis C. Pratt, Cheryl Lero Jonson, and Francis T. Cullen, *Crime and Justice* 2021 50:1, 353-424

<sup>2</sup> Justice denied evidence brief - vera institute of justice. (n.d.). Retrieved April 8, 2022, from <https://www.vera.org/downloads/publications/Justice-Denied-Evidence-Brief.pdf>

<sup>3</sup> Initiative, Prison Policy. "Research Roundup: Incarceration Can Cause Lasting Damage to Mental Health." Prison Policy Initiative, <https://www.prisonpolicy.org/blog/2021/05/13/mentalhealthimpacts/>.

<sup>4</sup> Pearson, Emma, et al. "A Large-Scale Analysis of Racial Disparities in Police Stops across the United States." [https://doi.org, https://5harad.com/papers/100M-stops.pdf](https://doi.org/https://5harad.com/papers/100M-stops.pdf).

<sup>5</sup> Office of Justice Programs National Criminal Justice Reference Service, Worden, A. P., Davies, A. L. B., Shteynberg, R. V., & Morgan, K. A., National Criminal Justice Reference Service (2020). Office of Justice Programs. Retrieved April 1, 2022, from <https://www.ojp.gov/pdffiles1/nij/grants/254620.pdf>.

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COMMUNITY  
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