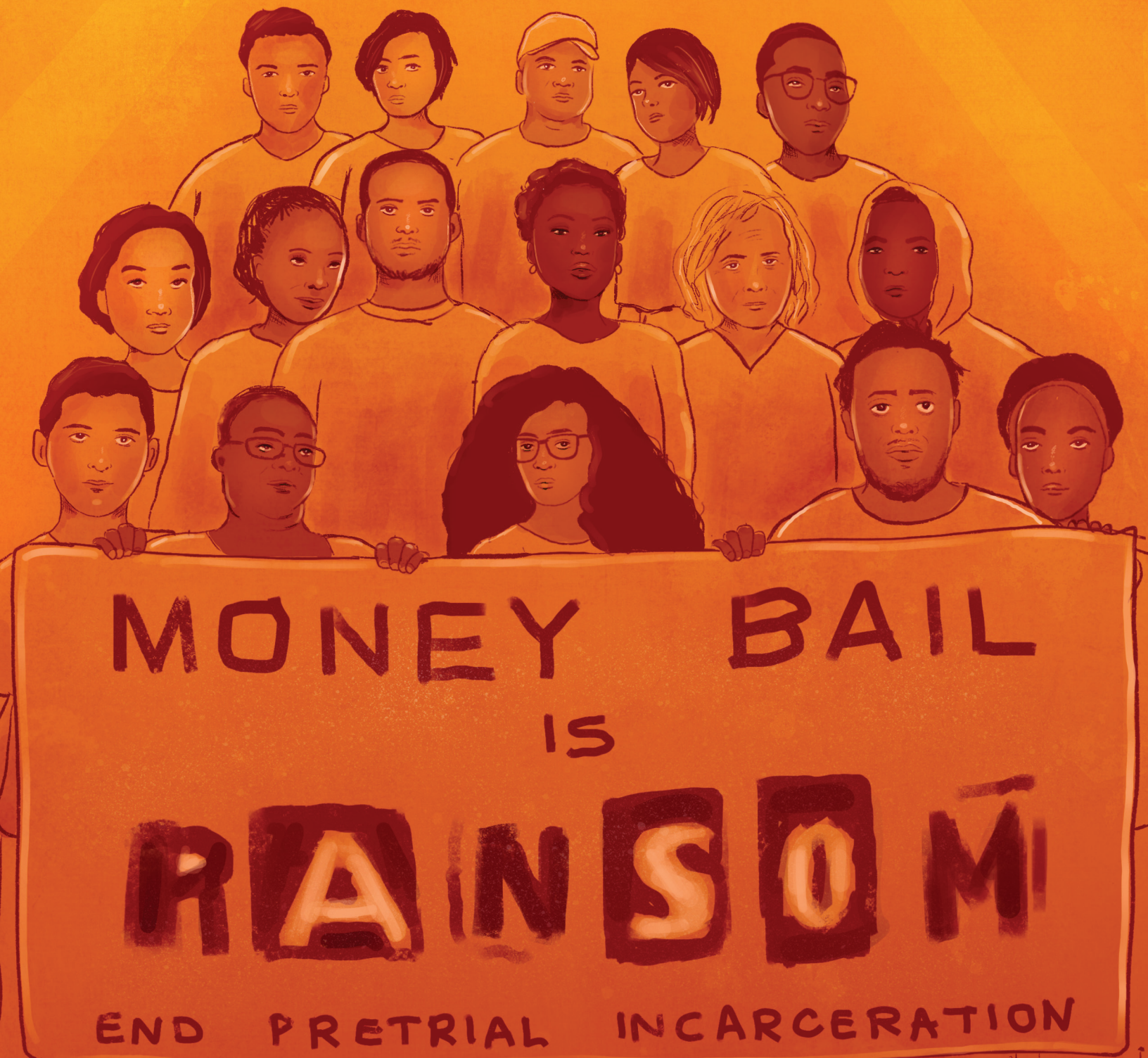


Protecting Pretrial Freedom:

Two Years of Bond Reform in Cook County



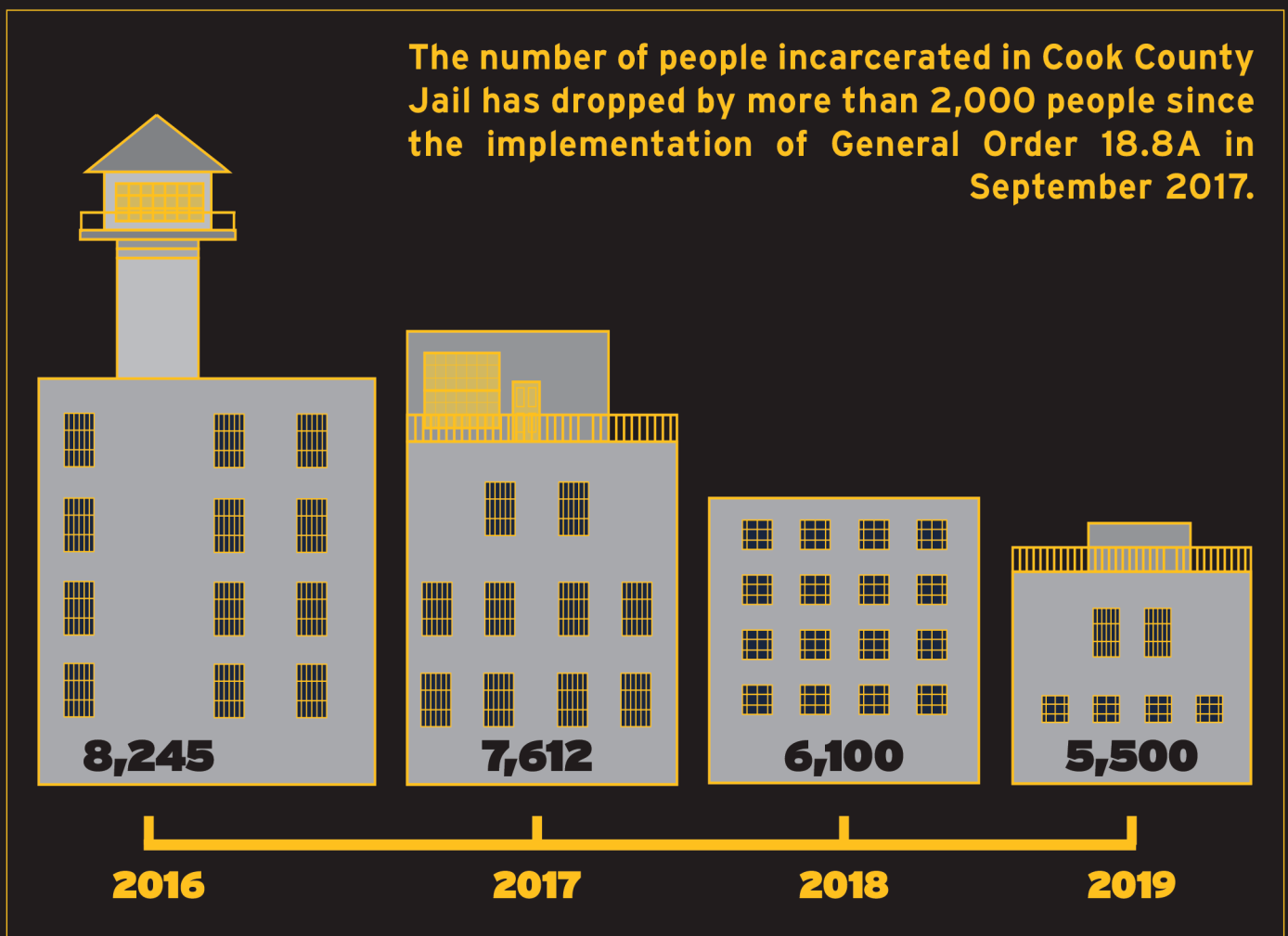
INTRODUCTION

Every year, tens of thousands of people are incarcerated in Cook County Jail while awaiting trial. In many instances, the only cause is their inability to pay a money bond.

As a result, they lose their jobs, housing, and sometimes even the custody of their children—all because they lack the money necessary to purchase their pretrial freedom. The harms caused by pretrial incarceration create instability that makes us all less safe. People incarcerated pretrial are more likely to be convicted, receive harsher sentences, and face higher rates of recidivism than those who are free while awaiting trial.

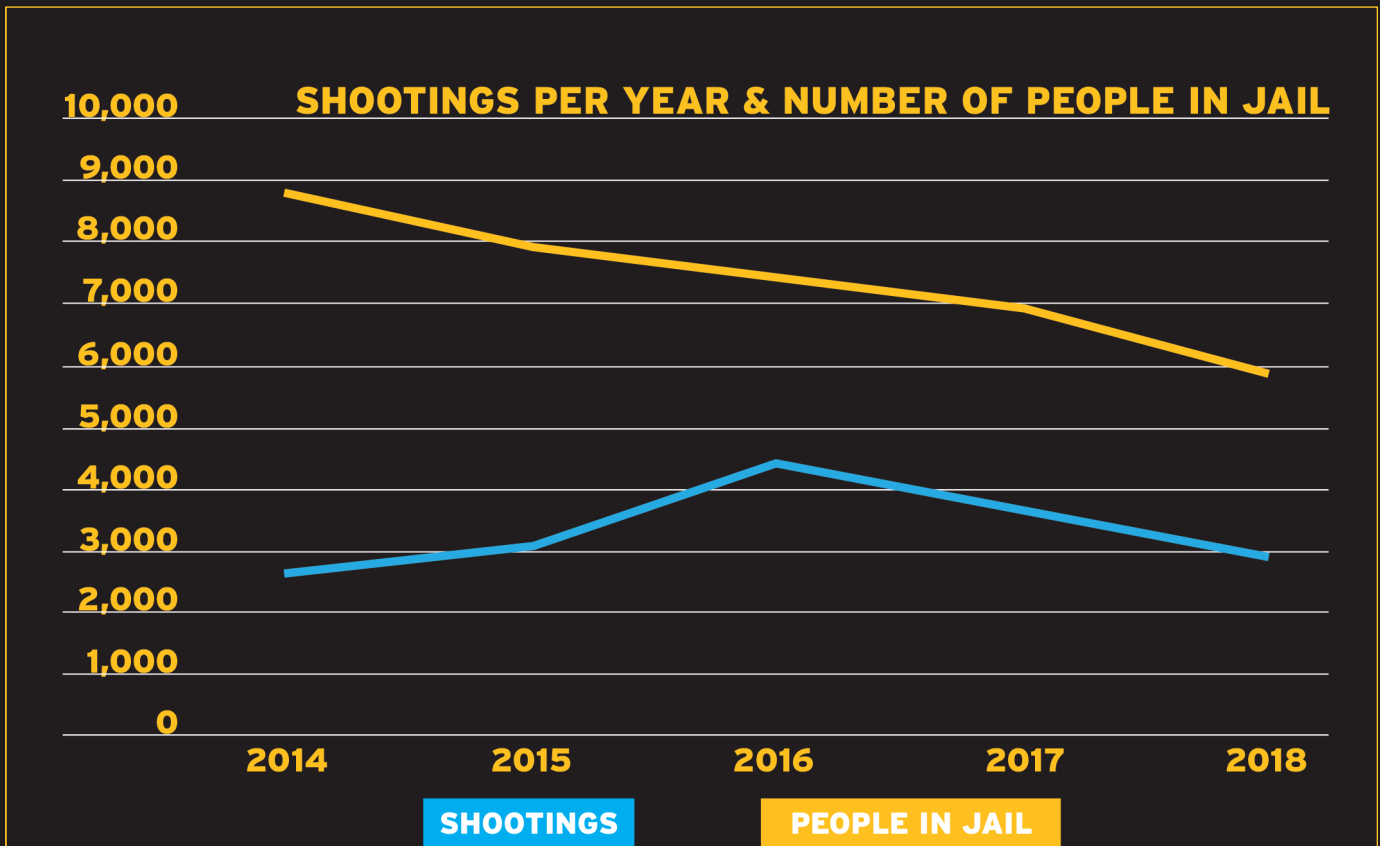
In 2016, the Coalition to End Money Bond worked with Civil Rights Corps, the Roderick and Solange MacArthur Justice Center, and Hughes Socol Piers Resnick & Dym, Ltd. to sue Cook County over its unconstitutional, wealth-based system of detention. In response, Cook County's Chief Judge issued General Order 18.8A, a local court rule designed to limit the use of money bond by judges. The Order instructs judges to set money bonds only as a last resort and only in amounts that people can afford to pay.

In 2017, the Coalition to End Money Bond trained more than 100 community members in how to observe bond court and gather data about the General Order 18.8A's implementation and impact, ultimately releasing a report documenting both its success and limitations. Since then, the Coalition has worked to hold judges accountable to the order, including issuing this updated report on the first anniversary of the order's implementation.



BOND REFORM INCREASES COMMUNITY SAFETY

The number of people in Cook County Jail declined 42% between 2014 and the end of 2018 (from 10,064 people to 5,799) while the number of shootings has been declining consistently since 2016.¹



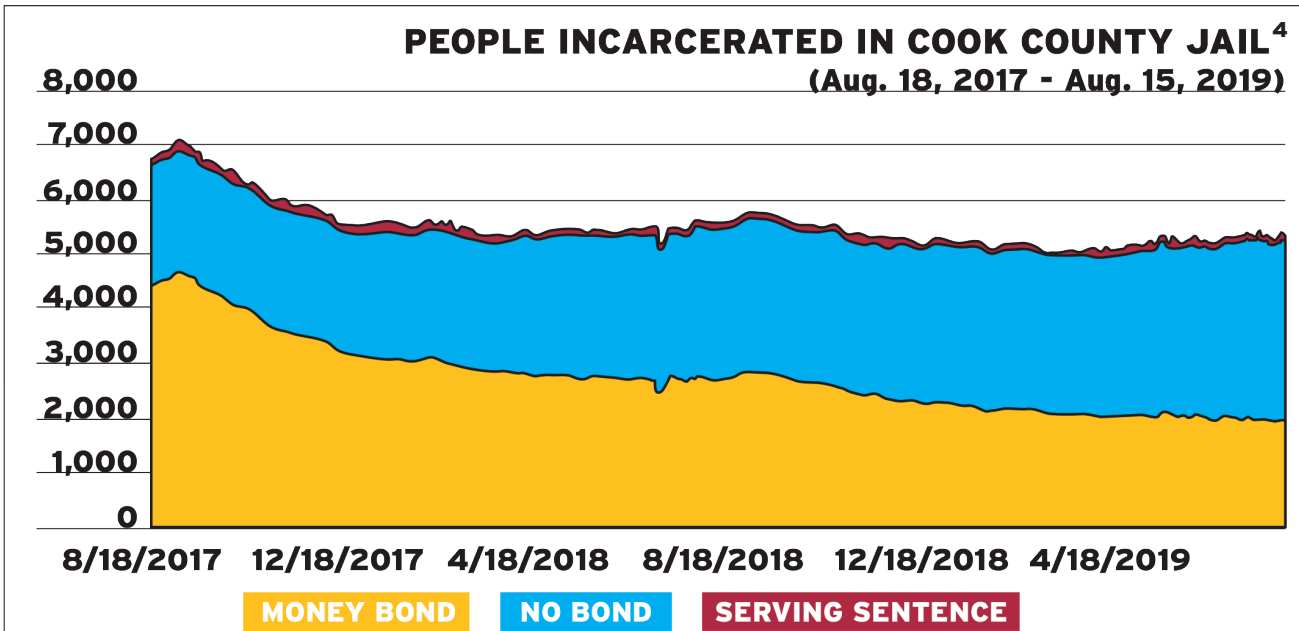
Over the last several years, Cook County has been quietly leading the way in pretrial justice reforms. When the Coalition to End Money Bond began our work in 2016, over 8,500 people were incarcerated in Cook County Jail on any given day. Today, that number has been reduced to around 6,000 people per day. This reduction can be attributed to the decreased use of unaffordable money bonds under General Order 18.8A, a major milestone on the road to a more just criminal legal system.

Importantly, these reforms have taken place without jeopardizing community safety. During the same years that the number of people in Cook County Jail declined by more than 40%, Chicago has experienced an overall reduction in violent crime. Between January and June 2018, while General Order 18.8A was in effect, violent crime in Chicago declined by almost 8% when compared to the same period in 2017.²

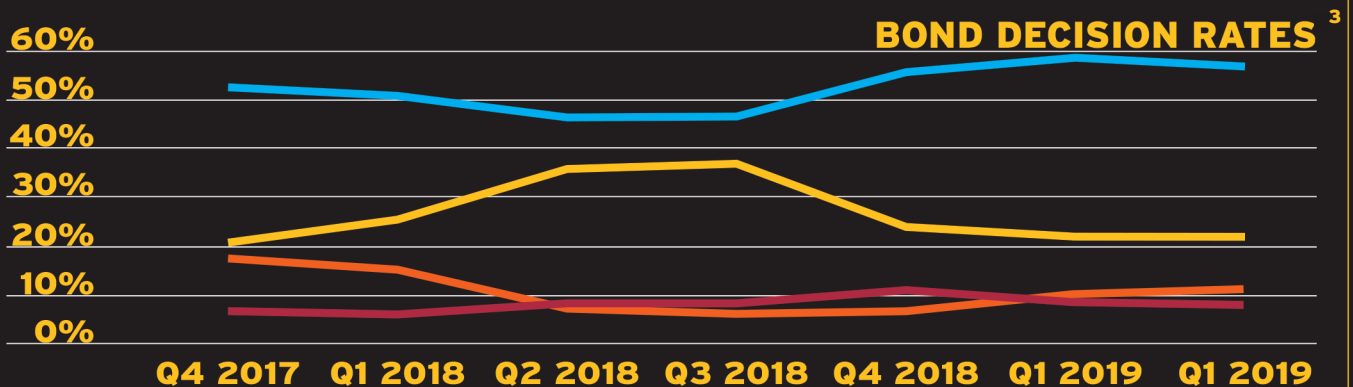
In fact, reducing pretrial incarceration is making our communities safer. Thousands of friends and neighbors who are presumed innocent are now able to return home and work, care for children and other family members, and heal. As a result of being in community, they are less likely to be convicted and will also receive shorter average sentences than if they remained in jail. Pretrial freedom also results in lower recidivism rates, meaning that bond reform actively contributes to long-term community safety and well-being. Cook County is demonstrating to the rest of the country that we can safely move away from the unconstitutional practice of incarcerating people pretrial because of their inability to pay a money bond.

Of the 24,504 people who were released between October 2017 and December 2018, just 147 people (0.6%), were subsequently arrested and accused of committing a new violent offense.³

THE USE OF MONEY BONDS CONTINUES TO DECREASE



The second year of the order's implementation, from September 2018 through June 2019, saw improved adherence compared to the first year. The percentage of people released without paying money increased, use of money bonds decreased, and the rate at which judges ordered people incarcerated in their homes through electronic monitoring remained relatively low.



	Q4 2017	Q1 2018	Q2 2018	Q3 2018	Q4 2018	Q1 2019	Q1 2019
I-Bond	52.9%	50.8%	46.6%	46.7%	56.4%	59.1%	58.0%
D-Bond	21.2%	25.6%	36.6%	37.6%	24.7%	22.3%	22.3%
EM	18.2%	16.3%	8.4%	7.1%	7.9%	10.4%	11.2%
No Bail	7.7%	7.3%	8.3%	8.6%	11.0%	8.2%	8.5%

- **D-Bonds:** Release requires payment of 10% of the bond amount set by the judge (for example, a \$1,000 D-Bond requires \$100 be paid for release).
- **I-Bonds:** Release is granted "on personal recognizance" without payment of money.
- **Electronic Monitoring (EM):** house arrest with electronic monitoring.
- **No Bail:** Pretrial release is denied and the person is ordered incarcerated by the court.

ALGORITHMS AREN'T THE ANSWER: RISK ASSESSMENTS INFLATE RISK OF FAILURE

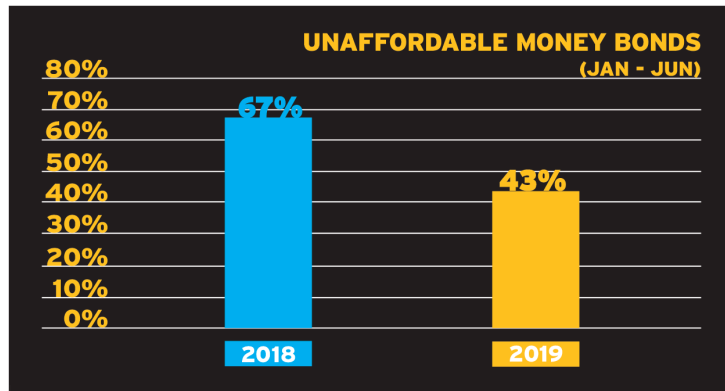
Between October 2017 and December 2018, 99% of the people identified by Cook County's risk assessment tool as at risk of being arrested for a new violent offense were not charged with any new violent crimes during their release.⁵



Cook County uses a risk assessment tool called the Public Safety Assessment (PSA) to make recommendations regarding pretrial release.⁶ Between September 2017 and December 2018, 2,874 people with the highest level risk scores⁷ for new criminal activity were released while awaiting trial. Of those thousands of people, a mere 20 (0.7%) were arrested for new offenses considered “violent.” For people who received low and medium risk scores, the rate of re-arrest was even lower: one half of one percent (0.5%). Meanwhile, in the same period, 2,192 people were denied release and ordered detained. Most of them (71%) received low and medium risk scores⁸ and should have been released according to the risk assessment tool’s recommendations. This data demonstrating extremely low re-arrest rates even for people considered to be “high-risk” strongly suggests that virtually everyone can be released pretrial without harm to the community.

The PSA thus recommends the over-supervision and incarceration of people who are of almost no risk to community safety. In recent years, more than 4,000 people who received the PSA’s most severe recommendation—“Maximum Conditions,” the closest thing to a recommendation of pretrial detention—have been released pretrial. More than three-quarters of them (77%) have not been rearrested on any charge. Unfortunately, however, the majority of people (56%) recommended to receive “Maximum Conditions” are jailed pretrial despite this evidence that the majority of them would succeed if given the chance.

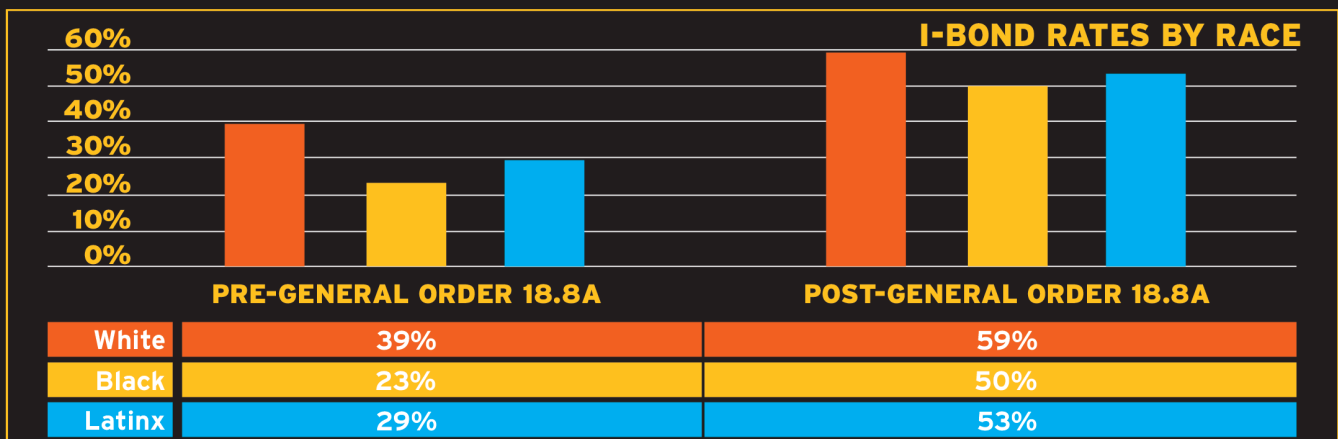
UNAFFORDABLE MONEY BONDS ARE STILL LOCKING PEOPLE UP IN COOK COUNTY



Despite the successes under General Order 18.8A, judges continue to set unaffordable money bonds that result in pretrial incarceration. Data on affordability of money bonds is less consistent, but nearly half of all money bonds issued in Central Bond Court in the first half of 2019 were unaffordable compared to over two thirds during the same period in 2018.⁹ According to data from the Office of the Chief Judge, 66% of all people ordered to money bonds in Cook County in the first half of 2019 eventually paid them and secured release compared to 58% in 2018.¹⁰

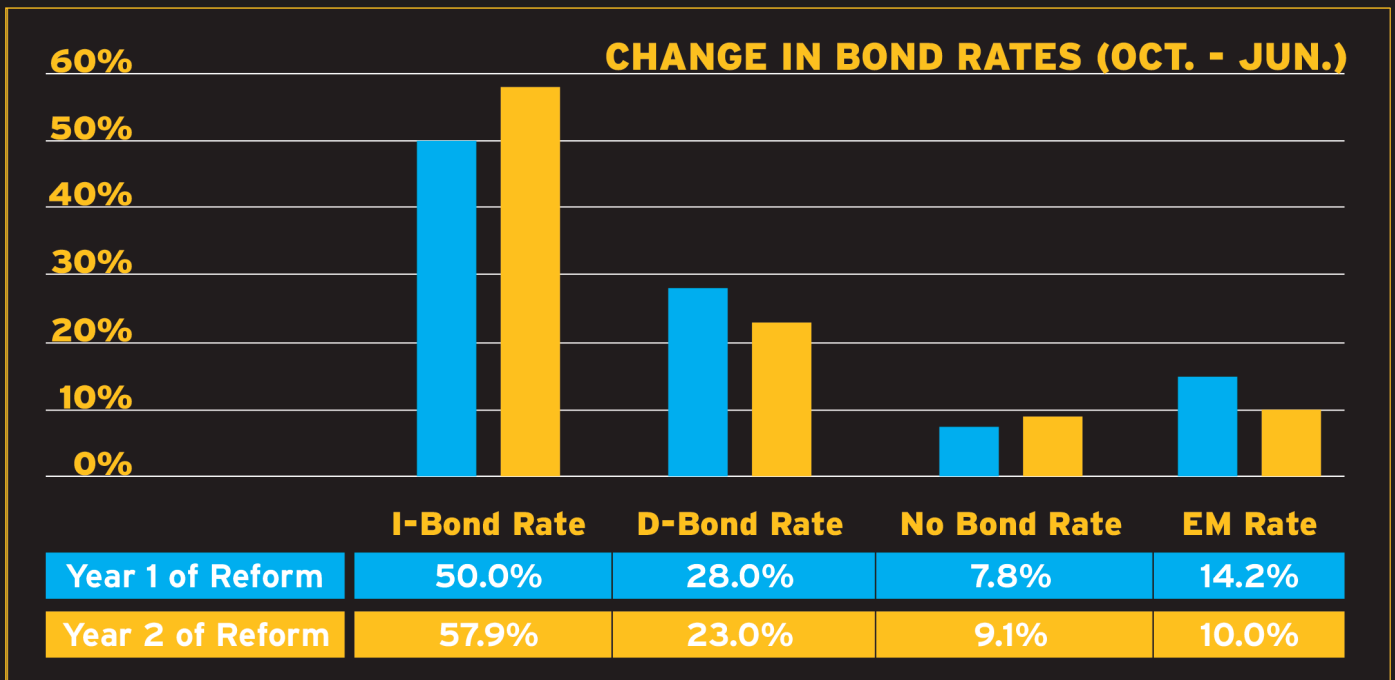
RACIAL DISPARITIES DECREASING, BUT STILL PREVALENT

The implementation of General Order 18.8A has reduced the disparity between non-monetary release rates for white and Black people.



Despite these improvements, significant and disturbing racial disparities remain prevalent in Cook County's pretrial justice system. Black people were half as likely as white people to be released without having to pay money in cases where their charges were considered "violent," were nearly 2.5 times more likely to be denied release with a no-bail order on a weapons-related charge, and were twice as likely to be incarcerated in their homes on electronic monitoring (EM) for a drug charge, to name just a few examples. There is no type of bond outcome (I-Bond, D-Bond, No Bond, or EM) in which Black people do not fare worse than white people.

YEAR TWO OF GENERAL ORDER 18.8A COMPARED TO YEAR ONE



The implementation of General Order 18.8A resulted in significant improvements to Cook County’s pretrial justice system in its first year. In the second year, judges have set even fewer money bonds and released more people without requiring money upfront, although they are also ordering more people detained than in the first year. These changes have occurred without a significant increase in the number of people incarcerated in their own homes on electronic monitoring.



Chicago Community Bond Fund Advocate Lavette Mayes speaking at the Rally to End Money Bail on September 18, 2018.

CONCLUSION

Since 2013, bond reform efforts have nearly halved the number of people incarcerated pretrial in Cook County Jail. Most recently, the adoption of General Order 18.8A resulted in Cook County Jail reaching lows not seen in over 30 years. While these reductions have been significant, we still have a long way to go.

Currently, there are approximately 2,000 people incarcerated at Cook County Jail only because they cannot afford to pay a money bond.¹¹ Each one of those incarcerated people is experiencing an injustice that was supposed to be impossible following the adoption of General Order 18.8A. We must continue to push for greater adherence to General Order 18.8A, especially in criminal trial courtrooms.

More significant policy changes are needed to ensure that no one is incarcerated in Cook County simply because they can't afford to pay a money bond. Beyond Cook County, more than 180,000 people are admitted to other jails across Illinois each year. The majority of people impacted lose their freedom simply due to unaffordable money bonds.

In December 2017, the Illinois Supreme Court established the Commission on Pretrial Practices to review our unjust, wealth-based bond system. In December 2019, the commission will release a report with official findings and recommendations for improvement. Communities across the state have called on the commission to recommend the implementation of a Supreme Court Rule endorsed by the Coalition to End Money Bond and more than 70 other organizations. This proposed rule would prevent the use of unaffordable money bonds as a cause of pretrial incarceration.



Representation of people incarcerated in Cook County Jail at the Coalition's Rally to End Money Bail on September 18, 2018.

CONCLUSION CONTINUED

The Coalition to End Money Bond also supports the Equal Justice for All Act, a bill introduced in the Illinois state legislature that would abolish the use of money in Illinois' pretrial justice system and replace it with a system that treats all Illinois residents fairly. People accused of lower-level charges could be released directly from police custody, reducing the chance that they would lose their jobs and lessening the burden on the courts.

Also under the Equal Justice for All Act, courts would be required to provide common-sense pretrial supports such as court date reminders and transportation assistance for low-income people. The bill would also require that courts give notice to someone who misses court before issuing a warrant for their arrest, allowing a 48 hour grace period in which someone can come in voluntarily. This will reduce unnecessary incarceration for people who simply forgot or were unable to attend court due to circumstances beyond their control.

Despite resistance from some systems actors, great strides have been made in Cook County to realize the presumption of innocence promised in the criminal legal system. As fewer people are forced to await their trial in a cage and instead maintain employment and housing stability and benefit from the love and support of their friends and family while in the community, we have seen a simultaneous decrease in violent crime. Pretrial freedom benefits everyone, and we hope to see the number of people incarcerated in Cook County Jail continue to fall as impacted communities and their allies maintain the demand for investment in resources that strengthen communities. As fewer people are incarcerated in Cook County Jail, resources previously spent on the jail must be redirected toward high-quality affordable housing, mental and physical health care, good jobs, excellent schools, and justice and healing initiatives rooted in and shaped by the communities they serve. Ending money bond and expanding pretrial freedom will bring us one step closer to a more just and equitable Cook County and Illinois.



The Crowd at the Coalition to End Money Bond's Rally to End Money Bail on September 18, 2018.

- 1** Bail Reform in Cook County: An Examination of General Order 18.8A and Bail in Felony Cases, Office of the Chief Judge, p. 1 (May 2019).
- 2** Bail Reform in Cook County: An Examination of General Order 18.8A and Bail in Felony Cases, Office of the Chief Judge, p. 1 (May 2019).
- 3** Created using data released by the Office of the Chief Judge of the Circuit Court of Cook County. Quarterly Model Bond Court Dashboards are available at www.cookcountycourt.org/HOME/ModelBondCourtInitiative.aspx.
- 4** Note the slight increase that appears to occur around September 2018 is due to a difference in the data received from the Cook County Sheriff's Office in response to FOIA requests and does not reflect an actual increase in the number of people incarcerated. Data received by FOIA is consistently several hundred people lower than the number displayed on the Sheriff's website for unknown reasons but is believed to accurately reflect the trends.
- 5** See also "How A Tool to Help Judges May Be Leading Them Astray" by Ethan Corey at The Appeal (available at <https://theappeal.org/how-a-tool-to-help-judges-may-be-leading-them-astray/>).
- 6** For more background on the PSA and its scoring system, see "How A Tool to Help Judges May Be Leading Them Astray" by Ethan Corey at The Appeal (available at <https://theappeal.org/how-a-tool-to-help-judges-may-be-leading-them-astray/>).
- 7** Meaning they were given a risk of new criminal activity score of 6 according to the PSA's scoring system.
- 8** Meaning they were given a risk of new criminal activity score of 1-5 according to the PSA's scoring system.
- 9** In this case, "unaffordable" means set at amounts greater than the accused person stated they could afford to pay
- 10** Calculated using the release numbers provided in the Model Bond Court Dashboards, which show release at any point in the period
- 11** According to data obtained by FOIA from the Cook County Sheriff's Office, there were 1,960 people in Cook County Jail on August 15, 2019 solely because they could not pay a money bond.



Coalition to End Money Bond

www.endmoneybond.org