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BAIL REFORM IN COOK COUNTY:  
USING NOVEL DATA TO EVALUATE GENERAL ORDER  
18.8A

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Submitted in partial fulfillment of the requirements for the degree of  
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## ABSTRACT

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**Topic:** This paper evaluates General Order 18.8A, a bail reform policy in Cook County, Illinois.

**Methods:** I use novel data obtained via Freedom of Information Act Request from the Cook County Sheriff's Office concerning people incarcerated in Cook County Jail. I support my analysis of this data with other data sources. Further, I conduct expert interviews for a mixed methods approach.

**Results:** The analysis concludes that General Order 18.8A has some positive effects, including the increased use of non-monetary bail and a decrease in the Cook County Jail's population, especially the population detained on misdemeanor offenses, but that General Order 18.8A did not meet its goals.

**Discussion:** The paper finds that although General Order 18.8A has changed the types of bonds judges are assigning and has decreased the jail population, it has not truly reformed bail in Cook County.

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# BAIL REFORM IN COOK COUNTY: USING NOVEL DATA TO EVALUATE GENERAL ORDER 18.8A

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BY HANNA PFEIFFER

## INTRODUCTION

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The presumption of innocence is a constitutional right guaranteed to every citizen of the United States. It is also a Universal Human Right according to the United Nations. Under this fundamental presumption of innocence, no one should be incarcerated unless they represent a public safety or flight risk. Despite the universality of this basic human right, the United States' criminal justice system consistently and frequently incarcerates people who are presumed innocent under the law simply because they are too poor to post their monetary bond. Monetary bonds require defendants to pay for freedom, but not all defendants are able to pay the amount required. When judges set a bond that is too high for a defendant to pay, the defendant must remain in pretrial detention until they plead either guilty to the charges or until the trial occurs, which often takes months or even years. With each passing day spent in jail, a detained person is increasingly at risk of losing their job, living accommodations, and even custody of their children, making it difficult to successfully re-enter society. Ultimately, the unchecked use of money bond to imprison the presumed innocent contributes to mass incarceration, socioeconomic disparities in the criminal legal system, and a violation of our constitutional rights.<sup>1</sup>

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<sup>1</sup> "Monitoring Cook County's Central Bond Court: A Community Courtwatching Initiative" (The Coalition to End Money Bond, February 27, 2018), [http://www.chicagoappleseed.org/wp-content/uploads/2018/02/Courtwatching-Report\\_Coalition-to-End-Money-Bond\\_FINAL\\_2-25-18.pdf](http://www.chicagoappleseed.org/wp-content/uploads/2018/02/Courtwatching-Report_Coalition-to-End-Money-Bond_FINAL_2-25-18.pdf).

Nationwide, it costs \$38 million a day to keep this largely nonviolent population behind bars, according to the Pretrial Justice Institute.<sup>2</sup> America spends an estimated \$22.2 billion annually to detain presumed innocent people in jails alone.<sup>3</sup> Over the past two decades, the number of people confined in city and county jails has nearly doubled, with pretrial detentions driving much of this increase.<sup>4</sup> Since 2000, 95% of the increase in jail population is the result of the increasing quantity of pretrial detentions.<sup>5</sup> According to the Department of Justice, approximately 63% of those in jail custody on any given day are due to pretrial detention.<sup>6</sup> Jail capacity has grown rapidly in the past three decades, but incarceration has grown even faster: in 2015, as much as 24% of jails were operating at over 100% capacity.<sup>7</sup>

Pretrial detention reached its peak in Chicago, Illinois, from 2013 to 2016, when the 96-acre Cook County Jail population regularly exceeded its maximum capacity of 10,000 inmates.<sup>8</sup> Cook County Sheriff Tom Dart admitted in an interview on *60 Minutes* that “fifty percent of those behind bars [in Cook County Jail] shouldn’t be there” as their detention was directly related to their inability to post bail.<sup>9</sup> While having the sheriff acknowledge the multitude of

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<sup>2</sup> The Pretrial Justice Institute  
<https://university.pretrial.org/HigherLogic/System/DownloadDocumentFile.ashx?DocumentFileKey=4c666992-0b1b-632a-13cb-b4ddc66fadcd>

<sup>3</sup> Hyperakt. 2018.

<sup>4</sup> Michael S. Woodruff, “The Excessive Bail Clause: Achieving Pretrial Justice Reform through Incorporation Note,” *Rutgers Law Review* 66 (2014 2013): [i]-298.

<sup>5</sup> Michael R. Menefee, “The Role of Bail and Pretrial Detention in the Reproduction of Racial Inequalities,” *Sociology Compass* 12, no. 5 (2018): e12576, <https://doi.org/10.1111/soc4.12576>.

<sup>6</sup> Minton, T. D., & Zeng, Z. (2016). *Jail inmates in 2015*. Washington, DC: U.S. Department of Justice.

<sup>7</sup> Stevenson, Megan, Distortion of Justice: How the Inability to Pay Bail Affects Case Outcomes (July 15, 2018). *Journal of Law, Economics & Organization*, Forthcoming; George Mason Legal Studies Research Paper No. LS 18-30. Available at SSRN: <https://ssrn.com/abstract=2777615> or <http://dx.doi.org/10.2139/ssrn.2777615>

<sup>8</sup> “Cook Co. Jail Overcrowded, Close to Exceeding Capacity | ABC7 Chicago Archive | [ABC7chicago.Com](https://abc7chicago.com/archive/9035057/) | [ABC7chicago.Com](https://abc7chicago.com/archive/9035057/),” accessed April 15, 2019, <https://abc7chicago.com/archive/9035057/>.

<sup>9</sup> “Half of the Inmates Shouldn’t Be Here, Says Cook County Sheriff,” accessed April 15, 2019, <https://www.cbsnews.com/news/cook-county-jail-sheriff-tom-dart-on-60-minutes/>.

issues with bail bonds is important, the sheriff and his policies alone cannot prevent people from entering the jail, since a sheriff has no control over the bonds judges are setting.

Therefore, repairing the Cook County justice system's bail issues requires action from the Cook County Court. The judges in bond court assign bail amounts that exceed what many of the accused can pay, trapping them in jail. After years of negative press relating to the conditions of the overcrowded jail, Cook County Chief Judge Timothy Evans enacted General Order 18.8A.<sup>10</sup> It took effect on September 18, 2017 with the intention of reforming Chicago's bond system by "ensure[ing] no [person] [be] held in custody prior to trial solely because [they] cannot afford to post bail."<sup>11</sup> This thesis investigates the efficacy of General Order 18.8A by analyzing data from both bond court and from the Cook County Jail.

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#### POLICY QUESTION

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To what extent is Cook County's General Order 18.8A a successful bail reform initiative?

I will evaluate its success with respect to how it:

1. Increased the rates of pretrial release, especially for defendants considered "bailable,"
2. Increased the speed of pretrial release,
3. Increased use of non-monetary bail, and
4. Achieves its intent of "ensur[ing] no defendant is held in custody prior to trial solely because the defendant cannot afford to post bail."

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<sup>10</sup> See Appendix A. See also 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-NO18-8AProcedures-for-Bail-Hearings-and-Pretrial-Release.aspx>; See also 725 ILCS 5/110-2.

<sup>11</sup> General Order No. 18.8A

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### SCOPE

I answer my policy question a mixed-methods approach. I use novel data concerning people incarcerated in Cook County Jail, which I obtained via Freedom of Information Act Request from the Cook County Sheriff's Office. I combine this data with data that evaluates changes that occurred in Central Bond Court due to the Order. Previous academic evaluations of General Order 18.8A have not been able to evaluate it using jail data that goes beyond simple population counts. This paper utilizes jail data to fill gaps in previous academic research. I use qualitative expert interviews to provide context for my quantitative analysis.

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### BACKGROUND

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#### DEFINITION

Both legal professionals and Illinois state statute use the words "bail" and "bond" interchangeably to refer to the money a defendant must pay to be released from jail prior to their trial and the conditions of release with which they must comply.<sup>12</sup> Technically, bail refers to the monetary and non-monetary conditions of release, and bond refers to the monetary payment due to the court. If an accused individual is released on cash bail, they must pay bond. The stated purpose of bail is to ensure the accused person's future presence in court after their release.<sup>13</sup> Statutorily, bond in Illinois is intended specifically to require that the defendant:

1. Appear in court to answer the charge(s) brought against them,
2. Comply with the orders and process of the court,
3. Does not leave the state without court permission,

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<sup>12</sup> Timothy R. Schnacke, *Fundamentals of Bail: A Resource Guide for Pretrial Practitioners and a Framework for American Pretrial Reform*, September 2014, p. 2.

<sup>13</sup> [https://www.americanbar.org/groups/criminal\\_justice/publications/criminal\\_justice\\_section\\_archive/crimjust\\_standards\\_pretrialrelease\\_blk/](https://www.americanbar.org/groups/criminal_justice/publications/criminal_justice_section_archive/crimjust_standards_pretrialrelease_blk/)

4. Does not violate any criminal laws, and
5. Comply with any other conditions the court finds “reasonably necessary” to ensure the defendant's appearance in court, protect the public from him, or prevent his unlawful interference with the orderly administration of justice.<sup>14,15</sup>

When an individual is arrested and taken into police custody, they are brought before a judge for a bail hearing in which their bail will be set. Illinois State Law outlines the following guidelines for judges deciding what bail to set:

1. Bail shall be non-monetary by default.
2. The court shall impose the least restrictive bail conditions necessary to reasonably assure the future appearance of the defendant in court.
3. The court shall consider the defendant's socio-economic circumstance when setting conditions of release or monetary bail.
4. The amount of bail shall be:
  - a. Sufficient to assure compliance with the conditions set forth in the bail bond.
  - b. Not oppressive.
  - c. Considerate of the financial ability of the accused.<sup>16</sup>

In Illinois, there are four types of bonds that judges set.<sup>17</sup>

1. An **I-Bond** does not require payment upfront. It is instead considered “release on recognizance.” A person who receives an I-Bond is released immediately in most

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<sup>14</sup> Conditions of release may include, but not be limited to, electronic home monitoring, curfews, drug counseling, stay-away orders, and in-person reporting.

<sup>15</sup> 725 ILCS 5/Art. 110, a-5, b-5 <https://www.bjs.gov/content/pub/pdf/ppcc-abdmfcd8283.pdf>

<sup>16</sup> *Ibid.*

<sup>17</sup> Chicago Community Bond Fund Annual Report, 2018.  
<https://www.chicagobond.org/reports/ShiftingSands.pdf>

- cases.<sup>18</sup> A person with a \$10,000 I-Bond will not pay to be released, but will face incarceration or owe the bond amount to the court if they do not return for the assigned court dates.
2. A Deposit Bond, or **D-Bond**, is a burdensome cash bond that requires payment equal to 10% of the bond value before the accused can be released from jail. The Cook County Court retains 10% of the amount posted as a processing fee regardless of the outcome of the case. For instance, a \$50,000 D-Bond requires the presumed innocent to pay \$5,000, or remain incarcerated. Of that money, Cook County retains \$500. If the accused person does not return for court dates, the deposit is forfeited to the court and they face incarceration.
  3. A **C-Bond** is another type of cash bond. It requires the accused to post 100% of the value in order to be released from jail. A \$50,000 C-Bond requires payment of the full \$50,000 or they will remain incarcerated until their trial is complete. If C-Bond conditions are violated the bond money they deposited is lost. C-Bonds are uncommon in Cook County.<sup>19</sup>
  4. On occasion, the accused is assigned **No Bond**. Thus, no amount of money will free the person from jail, and they must remain in jail until the court proceedings are complete. No bond is often used when the defendant is accused of a particularly severe crime, perceived as a danger to their community, or deemed a serious flight risk.<sup>20</sup>

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<sup>18</sup> with the exception of those who cannot comply with conditions of release, such as homeless individuals who are held in jail on I-Bonds because they do not have addresses to return to.

<sup>19</sup><http://www.cookcountycourt.org/ABOUTTHECOURT/MunicipalDepartment/FirstMunicipalDistrictChicago/BondCourt.aspx>

<sup>20</sup> Megan Stevenson, "Assessing Risk Assessment in Action" (December 8, 2017), p. 5, available at <https://papers.ssrn.com/>

In addition, a judge can pair an electronic monitoring bond, called an **EM bond**, with any of the above bonds as a condition of release. Defendants with an EM Bond can return to their residence as long as they wear the electronic monitor and agree to stay within defined geographical areas, normally limited to their home. When the accused complies with all court orders and attends all court dates, the court will return their bail money within 4 to 6 weeks after the close of court proceedings.<sup>21</sup>

Unattainable bail is defined as bail that judges set knowing the defendant will not be able to pay. Sometimes, judges use either unattainable bail or No Bail for people who are accused of unbailable offenses. Unbailable offenses are defined in the Illinois Statute to be capital offenses or offenses for which a sentence of life imprisonment may be imposed. (725 ILCS 5/110-4).<sup>22</sup> Bailable offenses, or offenses where the defendant is statutorily eligible for bail, are all offenses that are not capital offenses or do not carry sentences of life imprisonment.<sup>23</sup>

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#### GENERAL ORDER 18.8A

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Chief Judge of the Cook County Court, Hon. Timothy Evans, issued General Order 18.8A in July of 2017. It took effect on September 18, 2017 for felony cases and on January 1, 2018 for all cases. On the day the Order took effect in September 2017, Judge Evans replaced the six judges who preside over Central Bond Court. These judges were trained specially in following General Order 18.8a's directives. This Order does not alter the existing standards for establishing bail, and its text even restates many of them. However, it elucidates how judges can better meet the standards for setting bail. The Order stipulates the following:

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<sup>21</sup> 720 ILCS 5/112-6

<sup>22</sup> 725 ILCS 5/110-4

<sup>23</sup> 725 ILCS 5/110-4

1. Judges should default to using non-monetary bail, and if they opt to use monetary bail, they must justify the decision on the court's open record in order to document it as the "least restrictive" bail option.
2. Before the bail hearing, the court should evaluate the accused person's ability to post monetary bail. Before assigning monetary bail, the judge should take the defendant's ability to post bail into consideration.
3. If a person remains in jail for seven days due to an inability to pay bail, a judge is supposed to review their bail and consider making it less restrictive. In later sections of this paper, I refer to this bail review as a rehearing.

The language of the Order preserves judicial autonomy by strongly suggesting that judges change their behavior rather than strictly requiring it. If implemented correctly, these three changes will significantly improve bond court proceedings and restore a constitutional right.

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#### BOND IN COOK COUNTY

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The overuse of money bail in Cook County has been a consistent problem. A 1987 report illustrated that nearly 82% of defendants in Cook County were required to pay a cash bond to avoid jail, even though 77% of them were charged with nonviolent crimes.<sup>24</sup> In 2005, another study concluded that Cook County's judicial process, and especially its overuse of money bail was "keeping more defendants in jail who could appropriately be released."<sup>25</sup> Furthermore, in

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<sup>24</sup> 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

<sup>25</sup> 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.

2011 a U.S. District Court panel of three judges stated that the Cook County Jail would have less overcrowding “were it not for the unexplained reluctance of state judges in Cook County to set affordable terms for bail,”<sup>26</sup> since many of the detainees could have been released with small or no cash bail amounts.

There is a history of bail reform efforts in Cook County. In July 2017, the Justice Advisory Council (JAC), spurred by Cook County Board President Toni Preckwinkle, issued a report calling for changes in Central Bond Court procedures.<sup>27</sup> Many of the JAC’s recommended reforms were implemented—for instance, the court installed individual carrels in the court’s basement so that assistant public defenders and pretrial services officers could more privately interview defendants before bail hearings, and the Public Defender’s Office gained new funding to hire caseworkers to gather background information about detainees that could be used to file motions to reconsider initial bond orders at the next hearing.<sup>28,29</sup> However, many other recommendations were not implemented.<sup>30</sup>

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<sup>26</sup> *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.

<sup>27</sup> 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](http://www.suffredin.org/pdfs/2012-07_JusticeAdvisoryExaminationofCCBondCourt.pdf) (last accessed on February 13, 2019).

<sup>28</sup> David Spearman, “All Eyes on Reform: How Criminal Justice Is Changing in Cook County,” *Chicago Policy Review* (blog), October 28, 2013, <http://chicagopolicyreview.org/2013/10/28/all-eyes-on-reform-how-criminal-justice-is-changing-in-cook-county/>.

<sup>29</sup> “The Impact of Cook County Bond Court on the Jail Population: A Call for Increased Public Data and Analysis” (The Civic Federation, November 15, 2017), [https://www.civiced.org/sites/default/files/report\\_publicsafety.pdf](https://www.civiced.org/sites/default/files/report_publicsafety.pdf).

<sup>30</sup> Anne M Burke to Larry Suffredin, “EXECUTIVE DIRECTOR JULIANA STRATTON, ESO.,” accessed April 17, 2019, [http://www.suffredin.org/pdfs/2012-07\\_JusticeAdvisoryExaminationofCCBondCourt.pdf](http://www.suffredin.org/pdfs/2012-07_JusticeAdvisoryExaminationofCCBondCourt.pdf).

At Cook County Central Courthouse at 26th and California, bond court takes place every day of the week and on holidays.<sup>31</sup> Six judges, with a seventh presiding over them, are based at the Central Courthouse to focus on bond hearings. A bond hearing takes place within 48 hours of arrest. Before the bond hearing begins, the accused is transferred from jail to the courthouse, where they meet with public defenders and social workers before their hearing. Unless the accused person has already secured a private attorney, the public defender and social worker question the accused person to discern whether or not the accused has a job, stable housing, dependents, and what they can pay for bail. The defense attorney presents this information to the judge during a bond hearing.<sup>32</sup> According to the Chicago Community Bond Fund's study, the average length of a bond hearing was 37 seconds in 2016. This number is only an average. A closer look at bond hearing lengths reveals that hearings for defendants represented by private attorneys, which are called first, took four to five minutes, but cases handled by public defenders took 30 seconds or less. These findings have 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, and the Central Bond Court Report.<sup>33</sup> During the bond hearing, the prosecuting attorney, defense attorney, and the accused stand before the judge. The prosecuting attorney, also referred to as the state's attorney, reads the charges against the accused person. The pretrial services officer reads the risk assessment scores. Risk

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<sup>31</sup><http://www.cookcountycourt.org/ABOUTTHECOURT/MunicipalDepartment/FirstMunicipalDistrictChicago/BondCourt.aspx>

<sup>32</sup> 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](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.

<sup>33</sup> Illinois Supreme Court Administrative Office of the Illinois Courts, Circuit Court of Cook County Pretrial Operational Review, March 2014, pp. 44. April 2016.

assessments are algorithms that input a defendant's family, employment ties, and previous criminal record in order to assign a defendant with two things: a risk-assessment score and a recommendation of whether the defendant should be released or not.<sup>34</sup> Next, the defense attorney presents information on the accused person's background including the length of residence in Cook County, employment details, ties to the community, and a bond financial assessment. The judge then establishes bail and the next court date and then moves to the next defendant. In Cook County, a ten-thousand-dollar bond is typical for those accused of drug-related crimes. The median bail for property-related crimes is \$15,000, the median for violent crimes is \$25,000, and the median for gun crimes is \$50,000.<sup>35</sup> However, even ten percent of such amounts is unaffordable for many Chicagoans.

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#### AN INTRODUCTION TO COOK COUNTY JAIL

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Cook County Jail is the fourth-largest jail in the United States. It currently houses nearly seven thousand inmates and occupies as much space as 72 football fields. The jail is notorious for mistreatment of inmates. The United States Justice Department published federal findings of its 2007 investigation of the jail, declaring that almost no element of the jail met the Justice Department's standards.<sup>36</sup> Investigators pointed to poor supervision of inmates, the presence of weapons, mistreatment of inmates, unsatisfactory dental, mental health and medical care, electrical hazards, plumbing problems, and ventilation failings. The report also found that the jail's medical services fell below constitutional standards of care in more than a dozen areas,

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<sup>34</sup> Vizzuality, "Public Safety Assessment (PSA)," accessed April 3, 2019, <https://psapretrial.org/>.

<sup>35</sup> <https://www.chicagotribune.com/news/local/breaking/ct-chicago-guns-cook-county-bonds-20170127-story.html>

<sup>36</sup> Coen, Jeff, Hal Dardick, and Matthew Walberg. "U.S. Blasts Jail Conditions." *Chicago Tribune*, Jul 18, 2008. <https://search-proquest-com.proxy.uchicago.edu/docview/420668960?accountid=14657>.

including in staffing and emergency care. Guards engaged in unconstitutional confinement practices and physical abuse of inmates. Some inmates suffered needless amputations and even died as a result of Cook County Jail's abysmal conditions, the Justice Department concluded.<sup>37</sup> Its conditions have been so continuously atrocious that the Justice Department mandated federal oversight of the jail for more than 40 consecutive years.<sup>38</sup> This oversight officially ended on June 17, 2017, after the jail met conditions of a 2010 consent decree. Though the jail improved since the 2007 investigation, many of these issues remain. The citizens who are presumed innocent and cannot afford to post bail suffer in such conditions.

About 100,000 people spend some amount of time incarcerated in the Cook County Jail in a given year.<sup>39</sup> For the past ten years, the daily population of the jail ranged from just under 6,000 to nearly 10,000, when the jail was nearly at capacity in 2016. According to data from the Cook County Sheriff's office, the jail population composition is generally over 90% male and 10% female and less than 1% transgender, mostly under the age of 44, and disproportionately minorities as shown in the figures on the next page.<sup>40</sup>

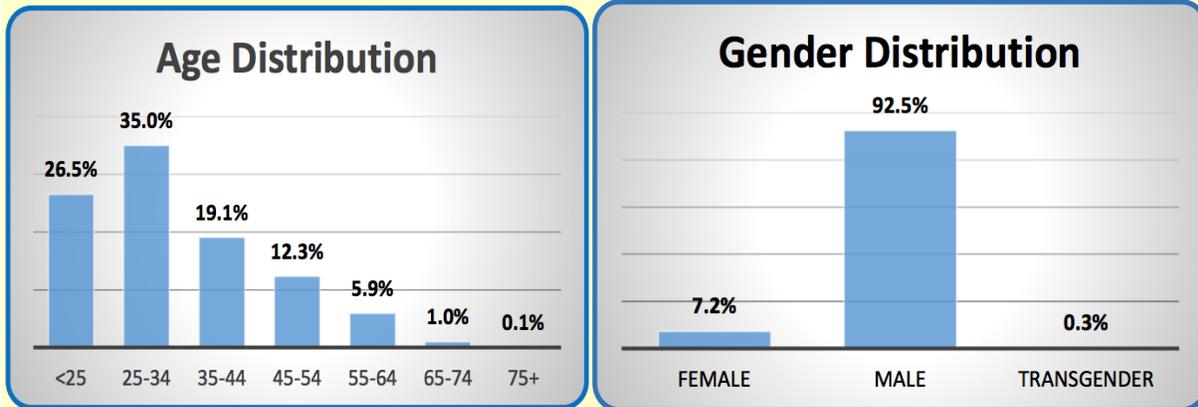
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<sup>37</sup> Anonymous, "'A Serious Problem': U.S. Attorney Says Cook County Jail Falls Short of Basic Standards," *Chicago Tribune; Chicago, Ill.*, July 18, 2008.

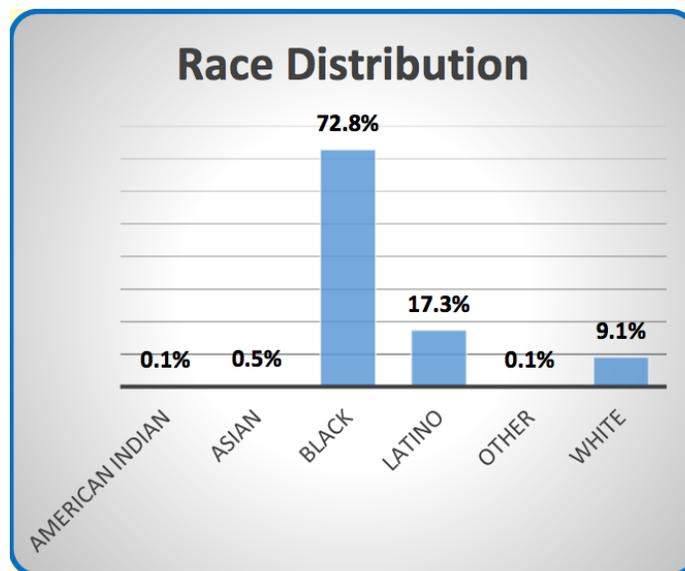
<sup>38</sup> <https://www.chicagotribune.com/news/local/breaking/ct-cook-county-jail-consent-decree-20170612-story.html>

<sup>39</sup> <https://www.nytimes.com/2008/07/18/us/18cook.html?em&ex=1216526400&en=0fd5af153b22e24b&ei=5087%0A>

<sup>40</sup> <https://www.cookcountysheriff.org/data/page/31/>



Source: Cook County Sheriff's Website



Source: Cook County Sheriff's Website

In contrast to prison inmates who are serving out sentences longer than a year, jail inmates are either serving out sentences shorter than a year or awaiting trial. Nationwide, 63 percent of the jail population is composed of inmates who are awaiting trial and cannot afford bail.<sup>41</sup> In contrast, somewhere between 90 and 95% of the Cook County Jail population before

<sup>41</sup> Hyperakt. 2018. "Vera Institute." Text/html. Vera. November 5, 2018. <https://www.vera.org/ending-mass-incarceration/reducing-the-use-of-jails/bail>.

General Order 18.8A was awaiting trial.<sup>42</sup> Many of these incarcerated individuals are behind bars because they allegedly committed crimes at the misdemeanor level or lower. The Chicago Community Bond Fund estimates that 2,700 inmates in Cook County Jail are there solely because they cannot afford bond.<sup>43</sup>

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#### OBSERVING BOND COURT

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I observed Central Bond Court both before and after General Order 18.8A went into effect. I volunteered for the Chicago Data Collaborative's court-watching project to evaluate General Order 18.8A. Court watcher volunteers attend court proceedings and take notes on many aspects, such as the demeanor of court personnel and length of proceedings. Court watchers have been used in courts all over the United States to ensure justice in all manner of court proceedings, including domestic violence courts and immigration courts. For the Collaborative, the court watchers gathered data on the defendant's race, age, gender, type of charge, the bond recommendation by the state's attorneys, whether or not electronic monitoring was ordered, and conditions of bond as stated on the record.<sup>44</sup> The form that court watchers completed is in Appendix B. A nonprofit called Chicago Appleseed hosted training so that the court watchers knew what to look for in bond court. More than 100 court watchers regularly attended Cook County Bond Court from July 2017 until October 2017. When evaluating the court-watcher-

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<sup>42</sup> "Monitoring Cook County's Central Bond Court: A Community Courtwatching Initiative" (The Coalition to End Money Bond, February 27, 2018), [http://www.chicagoappleseed.org/wp-content/uploads/2018/02/Courtwatching-Report\\_Coalition-to-End-Money-Bond\\_FINAL\\_2-25-18.pdf](http://www.chicagoappleseed.org/wp-content/uploads/2018/02/Courtwatching-Report_Coalition-to-End-Money-Bond_FINAL_2-25-18.pdf).

<sup>43</sup> <https://www.chicagobond.org/reports/ShiftingSands.pdf>

<sup>44</sup> "In bond courts, the court watchers collected both quantitative and qualitative data on bond court activities from August to October 2017, answering questions including: Were you and loved ones able to get in? Were you able to hear what was happening? What type of attorney did the defendant have? What was the risk assessment score? What were the State's Attorney's recommendations? What bond type and amount was set? Were there any additional pretrial conditions?" [chicagoappleseed.org](http://chicagoappleseed.org)

collected data, Chicago Appleseed noted discrepancies and missing elements.<sup>45</sup> After examining this data myself, I saw too many discrepancies between simultaneous court watcher observations and too many missing entries for the data to be of use in my analysis.

I personally court watched before and after General Order 18.8A's implementation. I first observed Bond Court in July 2017. At that time, I was interning at a criminal justice policy organization, the Illinois Justice Project (ILJP) and had just learned about the failures of Cook County's cash bond system through conversations with colleagues. Coincidentally, a friend asked me to observe bond court with him. He had attended training for the Chicago Appleseed's court watching initiative to evaluate bond court and the implementation of General Order 18.8A. One Saturday, we observed and documented Central Bond Court proceedings. My experience on this day further strengthened my conviction to report on this topic. It took over an hour to reach the courthouse from Hyde Park via CTA buses. I recall thinking how difficult it would be for a defendant to get to and from court on a day when the defendant had to work or take care of children. Upon arrival, we walked through metal detectors and learned that phones or other recording devices were not allowed. The lockers to store phones and other personal items were closed on weekends. Thus, we walked outside and tried to inconspicuously stuff our phones under a newspaper stand, hoping no one noticed. Thankfully, our phones were still there at the end of bond court. The courtroom was almost completely full of people waiting to see what kind of bail the judge would give their loved ones. We returned to court and sat in long, straight-backed pews straining to hear the proceedings. The cases moved quickly, and the accused

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<sup>45</sup> *Monitoring Cook County's Central Bond Court: A Community Courtwatching Initiative*, August - October, 2017. [http://www.chicagoappleseed.org/wp-content/uploads/2018/02/Courtwatching-Report\\_Coalition-to-End-Money-Bond\\_FINAL\\_2-25-18.pdf](http://www.chicagoappleseed.org/wp-content/uploads/2018/02/Courtwatching-Report_Coalition-to-End-Money-Bond_FINAL_2-25-18.pdf).

person, the prosecutor, and the defense attorney faced from us and towards the judge. They did not speak very loudly. This made it exceedingly difficult to hear and to fill out the data collection sheets for Chicago Appleseed. I imagine it was similarly difficult for the judge. The judge became quite angry if a defendant spoke out of turn, and I never heard the judge ask the defendant what he or she could afford to pay before setting bail, which was frequently as much as \$50,000.

When I observed Central Bond Court after implementation of General Order 18.8A, in January 2019, I noticed differences. I recorded the judge more frequently asking the accused person how much they were able to pay and seriously taking that amount into consideration before setting bail. The majority of the time, the public defender stated the amount the defendant could pay along with a justification of that amount without prompting from the judge. The public defender's justifications included a statement of the accused's employment status, living situation, and familial responsibilities. In one case, the judge directly asked two women what they could pay for bail. After a quick glance at each other, they looked back at the judge, and responded, "about \$20." The judge assigned a \$10,000 I-Bond, meaning no payment was due and they would be released that day.

However, the judge did not always set the bond amount at an affordable level. In these situations, the judge justified the unaffordable amount on the court record. Occasionally, the judge set unaffordable bail because the defendant had not met the conditions of bail or had an outstanding warrant for arrest because they had violated conditions of the previous bail.

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## LITERATURE REVIEW

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### RACISM AND PRETRIAL DETENTION

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Though my data, and therefore my analysis, does not contain much information concerning race, it is crucial to discuss how the United States' institutional racism plays out in the pretrial system. People in positions of power largely craft, write, interpret, and enforce criminal laws, and in the United States, criminal laws have been historically used to enforce class, gender, and racial interests.<sup>46</sup> Countless studies have demonstrated that incarceration has consequences for not only the individuals who experience it but also for their families and communities.<sup>47</sup> Since racial and ethnic minorities disproportionately face incarceration, their families and communities are unduly disenfranchised by it, perpetuating inequality of minority communities.<sup>48</sup> Scholars have put forth a “cumulative disadvantage” theoretical framework to describe the racial and socioeconomic inequality perpetuated via the United States criminal justice system.<sup>49,50</sup> The cumulative disadvantage framework highlights how racial and socioeconomic inequalities exist at every stage of the criminal justice system, from over-policing of minority communities to over-criminalization of minorities, to over-sentencing. The pretrial system adds to this cumulative disadvantage effect by not only perpetuating pre-existing inequalities in the criminal justice system but also by adding to them. One study illustrated that when judges set bail, black and Latino men pay 35 percent and 19 percent higher bail,

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<sup>46</sup> Alexander, M. (2010). *The new Jim Crow: Mass incarceration in the age of colorblindness*. New York, NY: The New Press.

<sup>47</sup> Michael R. Menefee, “The Role of Bail and Pretrial Detention in the Reproduction of Racial Inequalities,” *Sociology Compass* 12, no. 5 (2018): e12576, <https://doi.org/10.1111/soc4.12576>.

<sup>48</sup> Menefee, “The Role of Bail and Pretrial Detention in the Reproduction of Racial Inequalities.”

<sup>49</sup> Wooldredge, J., Frank, J., Goulette, N., & Travis, L. III (2015). Is the impact of cumulative disadvantage on sentencing greater for Black defendants? *Criminology & Public Policy*, **14**, 187–223.

<sup>50</sup> Sutton, J. R. (2013). Structural bias in the sentencing of felony defendants. *Social Science Research*, **42**, 1207–1221.

respectively, than white men, even when adjusted for education and income differences.<sup>51</sup> Other studies prove that racial and ethnic minorities are more likely to be detained, partly because they often lack the ability to pay bail, which is set at an amount disproportionately high when compared to white or wealthy defendants' bail amounts.<sup>52,53</sup> Pretrial detention makes it more difficult for a defendant to participate in their own defense or obtain and confer with counsel. Additionally, when people are incarcerated pretrial, they more readily accept guilty plea deals in order to get out of jail sooner.<sup>54</sup> A natural experiment that utilized random assignment of defendants to judges found that pretrial detention led to a 13% increase in guilty pleas and increased incarceration lengths by 42%.<sup>55</sup> This experiment showed a causal relationship between pretrial detention and guilty pleas; pretrial detention increases the likelihood of a defendant being convicted of a crime, whether the defendant is guilty or not. Analysis of interaction effects revealed that African American males age 18–29 experienced lower odds of non-monetary bail, higher bond amounts, and higher odds of incarceration in prison relative to other demographic subgroups, even with the inclusion of rigorous controls for legally relevant criteria.<sup>56</sup> These studies show how high bonds and pretrial incarceration fit into the cumulative disadvantage framework of the criminal justice system.

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<sup>51</sup> Ian Ayres and Joel Waldfogel. *A Market Test for Race Discrimination in Bail Setting*. Stanford Law Review: Vol. 46, No. 5 (May 1994), pp. 987-1047

<sup>52</sup> Wooldredge, J., Frank, J., Goulette, N., & Travis, L. III (2015). *Is the impact of cumulative disadvantage on sentencing greater for Black defendants?* Criminology & Public Policy, 14, 187–223.

<sup>53</sup> Traci Schlesinger (2005) Racial and ethnic disparity in pretrial criminal processing, *Justice Quarterly*, 22:2, 170-192, DOI: [10.1080/07418820500088929](https://doi.org/10.1080/07418820500088929)

<sup>54</sup> Menefee, “The Role of Bail and Pretrial Detention in the Reproduction of Racial Inequalities.”

<sup>55</sup> Marcia Johnson and Luckett Anthony Johnson, “Bail: Reforming Policies to Address Overcrowded Jails, the Impact of Race on Detention, and Community Revival in Harris County, Texas,” *Northwestern Journal of Law and Social Policy* 7 (2012): [i]-87.

<sup>56</sup> Traci Schlesinger, “Racial and Ethnic Disparity in Pretrial Criminal Processing,” *Justice Quarterly* 22, no. 2 (June 1, 2005): 170–92, <https://doi.org/10.1080/07418820500088929>.

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### HISTORY OF BAIL REFORM

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The first record of unattainable bail in America was in 1835.<sup>57</sup> Before 1835, virtually no bailable defendants had ever been detained pretrial for failure to pay a sum of money.<sup>58</sup> After this date, the frequency of judges' use of secured bonds increased steadily until unsecured bonds were basically nonexistent as it became apparent to activists, researchers, and the public that pretrial detainment of accused people was unjust.<sup>59</sup> Actions to reform bail ensued in the following century but have not proven successful or enduring, much like past jail and bond reforms in Cook County.<sup>60</sup> Policy changes are often described as a pendulum; they gain momentum until momentum slows, stops, and then moves in the opposite direction. This pendulum-like movement occurs especially when the changes are enacted in such a way that they can easily be reversed. This pendulum-like movement occurs throughout the history of bail reform in America.

Bail reform has occurred in three major movements. Each movement began because the injustices of cash bail influenced public consciousness. The first major bail reform movement began in the 1920s and culminated with the Bail Reform Act of 1966. This Act put alternatives in place such as release on personal recognizance, nonfinancial conditions of bail, risk assessment, and pretrial services supervision. For the first time, researchers used data analysis to show that even short periods of incarceration, regardless of a person's guilt, negatively impacted

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<sup>57</sup> Timothy R. Schnacke, "A Brief History of Bail," *Judges' Journal* 57, no. 3 (Summer 2018): 4–36.

<sup>58</sup> Timothy Schnacke, "The Third Generation of Bail Reform," 2017, 7.

<sup>59</sup> Schnacke, "A Brief History of Bail."

<sup>60</sup> Rachel Smith, "Condemned to Repeat History - Why the Last Movement for Bail Reform Failed, and How This One Can Succeed," *Georgetown Journal on Poverty Law and Policy* 25 (2018 2017): 451–74.

their ability to reintegrate into their way of living.<sup>61</sup> In response to these injustices, researchers at what is now the Vera Institute of Justice devised a new method of deciding bail conditions. They created the risk-assessment tool.<sup>62</sup> Judges began using this risk-assessment system to decide whether a defendant was safe to release without money bail. The risk-assessment system, along with other reforms, was instituted in hundreds of jurisdictions throughout the United States and led to a significant drop in pretrial incarceration rates. This reform movement “included significant social science research to assess the risk of flight, creation of pretrial services agencies to help courts with the release and detention decisions, and increased use of nonfinancial conditions as well as personal recognizance bonds.”<sup>63</sup> Pretrial services agencies are part of the court. They have different functions in different jurisdictions. They operate pretrial supervision services, electronic monitoring services, and remind defendants of their court dates, among other things.<sup>64</sup>

Much like the aforementioned swing of a pendulum, the reform efforts of the 1960s began to reverse when the 1970s brought fears about rising crime rates. Politicians throughout the United States began running for office on “tough on crime” rhetoric and enacted preventative detention laws.<sup>65</sup> Pretrial resource centers lost funding and closed in many states. Some felt the risk assessment system increased discrimination because it highly valued metrics such as

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<sup>61</sup> Smith, “Condemned to Repeat History - Why the Last Movement for Bail Reform Failed, and How This One Can Succeed”

<sup>62</sup> Because the risk-assessment tool provided a clear recommendation for the judge to release or detain the defendant, the risk assessment algorithm removed some of the autonomy of the judge, but it also removed much of the judge’s culpability resulting from releasing a defendant who then commits a crime. The use of risk assessments is controversial but outside of the scope of this paper.

<sup>63</sup> Timothy Schnacke, “The Third Generation of Bail Reform,” 2017, 7.

<sup>64</sup> Smith, “Condemned to Repeat History - Why the Last Movement for Bail Reform Failed, and How This One Can Succeed.”

<sup>65</sup> Smith.

consistent employment history and home ownership, which poor people, racial minorities, and those with disabilities are less likely to have. Many courts stopped using it, returning more power to judges.<sup>66</sup>

The second bail reform movement occurred in the late seventies and eighties, focusing on determining upfront what accused persons should be purposefully released and potentially detained through a net of restrictions on detention eligibility, ensuring pretrial detention could occur only if the defendant was shown to be a risk for both flight and public safety. The reform attempted to eliminate "unintentional" detention altogether through significant limits on the dollar amount set for bond. The reforms were, for the most part, short-lived. Most federal bail-reform policies were not widely embraced by the states.<sup>67</sup> Furthermore, they were reversed due to fear over crime spiking in the eighties and the nineties.<sup>68</sup>

A third bail reform movement is occurring now. General Order 18.8A is part of this movement. The third movement is the most idealistic of the three and pushes for the most radical change. Not only do today's reformers seek excellent pretrial services and equitable risk assessments, but they also push for the total elimination of cash bail.<sup>69</sup>

This modern bail reform movement and the one from the 1960s have commonalities both in origins and in methods. Many states are reinstating the reforms of the 1960s that were quickly wiped away just a decade later as these methods were proven to be ineffective, such as

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<sup>66</sup> Smith, "Condemned to Repeat History - Why the Last Movement for Bail Reform Failed, and How This One Can Succeed."

<sup>67</sup> Smith, "Condemned to Repeat History - Why the Last Movement for Bail Reform Failed, and How This One Can Succeed."

<sup>68</sup> Schnacke, "A Brief History of Bail."

<sup>69</sup> Schnacke, Timothy R. 2018. "A Brief History of Bail." *Judges' Journal* 57 (3): 4-36.  
<http://proxy.uchicago.edu/login?url=http://search.ebscohost.com/login.aspx?direct=true&db=a9h&AN=131396035&site=eds-live&scope=site>.

switching from money bail to risk assessments. However, the key to lasting reform will not be found by copying the 1960s movement, but in instituting more comprehensive changes to the bail system than those that occurred in the 1960s, according to bail historian Rachel Smith.<sup>70</sup> Instead, reform must reinforce successful elements of old reforms such as eliminating commercial bail industries and creating vibrant pretrial-services agencies. Furthermore, states must narrow the list of crimes for which pretrial incarceration is allowed. Studies show that eliminating pretrial incarceration for all crimes with the exception of violent felonies creates significant financial savings for the government while allowing inmates to remain employed, care for their families, and avoid the trauma associated with incarceration. Additionally, the modern bail reform movement must advance beyond the 1960s movement by demanding comprehensive reforms that eliminate money bail.<sup>71</sup>

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## METHODS

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### MIXED METHODS APPROACH

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To fully evaluate General Order 18.8A, I examined two matters: Central Bond Court and Cook County Jail's population. If General Order 18.8A was effective, the impact would be observed in both of these sites. In court, positive impact is shown by judges relying less frequently on monetary D-Bonds and more frequently on I-Bonds (non-monetary bail). In jail, a decrease of incarcerations, as well as length of incarcerations, indicates improvement. In evaluating data from Central Bond Court procedures, the need for more qualitative information became apparent. I was not able to tell if stipulations of General Order 18.8A were being

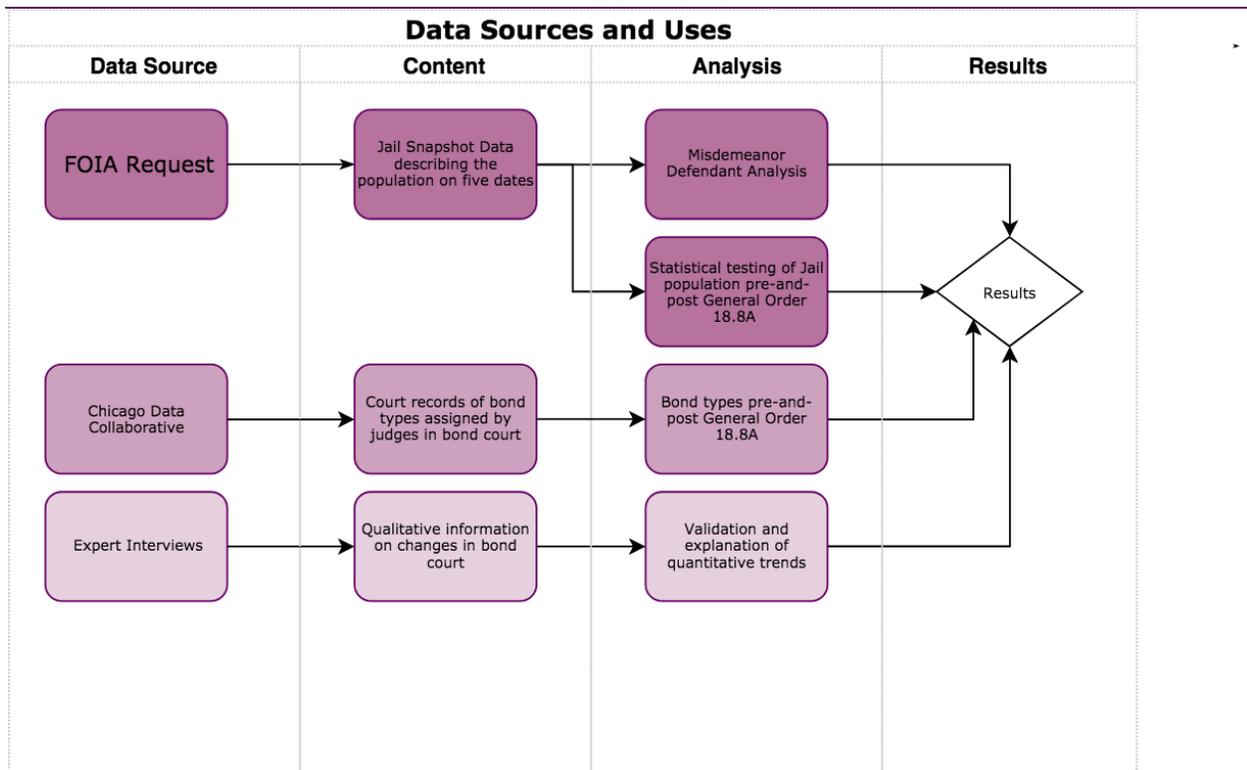
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<sup>70</sup> Smith, "Condemned to Repeat History - Why the Last Movement for Bail Reform Failed, and How This One Can Succeed."

<sup>71</sup> Smith, Rachel. "Condemned to Repeat History - Why the Last Movement for Bail Reform Failed, and How This One Can Succeed"

implemented. These are discussed further in my analysis section. At this point, I opted to use a mixed-methods approach. In addition to locating and analyzing quantitative data, I also performed a set of semi-structured interviews with public defenders, policy experts, and activists to learn more about General Order 18.8A's implementation and its impact.

### DATA COLLECTION



The above diagram demonstrates how I obtained and used each of the data sources. No single source of data offered a holistic picture of General Order 18.8A's effect on bail reform. I needed to examine both the Cook County Jail population and the Cook County Court to evaluate it holistically which required using different data sets.

To obtain data on the jail population both before and after General Order 18.8A, I filed a Freedom of Information Act (FOIA) request via email with the Cook County Sheriff's office to obtain snapshots of the jail population on ten different dates—January 9 of each year from 2009

to 2019.<sup>72</sup> In my FOIA request, I requested spreadsheets from each date listing every person in Cook County Jail on these dates, their name, age, days spent in jail, crime, crime type, zip code, bond amount, and more on several different dates ranging from 2014 to 2019.<sup>73</sup> I refer to these spreadsheets as jail snapshots throughout this paper to maintain consistency. Obtaining the jail snapshots from this FOIA request was more difficult than expected. I submitted the request on January 11, 2019. The Cook County Sheriff's Office delayed my request twice for reasons they did not specify and then partially fulfilled the request finally on February 5, 2019. They did not provide all the data I requested. Via email, they explained that data older than 2015 could not be provided in a reasonable timeframe. Since the jail had changed its record-keeping system at the end of 2015, it would have taken considerable time to retrieve data from the old system. Since the data from 2015 through 2019 would still give me the ability to compare the jail population with multiple points from before and after General Order 18.8A went into effect, I decided not to press the FOIA office for additional dates.

To obtain Cook County Bond Court data, I utilized the Chicago Data Collaborative's open-source data, which is available online.<sup>74</sup> The Chicago Data Collaborative is a cooperative effort by newsrooms, academics, and nonprofit researchers to create a data repository providing access to evaluate Chicago's criminal justice system. The Collaborative has data concerning the Cook County Bond Court's official, published records, which I will refer to as "court records." The Court's official records are limited in scope; they contain the number of cases processed by bond court and the types of bonds assigned by day. The court records are missing key data such

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<sup>72</sup> See Appendix A for a copy of my FOIA request.

<sup>73</sup> See Appendix A for a copy of my FOIA request, and see Appendix C for a screenshot of one of my jail data snapshots.

<sup>74</sup> <https://chicagodatacollaborative.org/>

as information regarding crime type, race, gender, or if the judge took the ability to pay into consideration.

To recruit my interviewees, I relied on the network of people I met while interning at the Illinois Justice Project (ILJP), a small criminal justice policy nonprofit based in Chicago. I sought interviewees based in Chicago who had studied or experienced General Order 18.8A in different contexts. When interviewing an expert, I asked at the end of the interview for a referral to another expert. Usually, this resulted in an additional interviewee. In this way, I recruited interviewees with differing vantage points on Bond Court and bail reform. My interviewees were between the ages of 35 and 50 and included lawyers, policy experts, activists, and nonprofit leaders. I interviewed the following: the Head of Policy at the Cook County Public Defender's (PD) Office, the PD's Supervisor of Weekend and Holiday Bond Court,<sup>75</sup> the PD Supervisor of Felony Trial Court, the Executive Director of the Chicago Community Bond Fund (CCBF), the Deputy Director of ILJP, and an ex-Public Defender.

While the sample was small, the breadth of knowledge and experience it covered was large. Additionally, its size is of less importance as these interviews are not used as the sole basis of the analysis. Rather, the interviews are used to and add context to my data analysis. I did not manage to hear all the perspectives I wanted, however. In particular, I wanted to interview a bond court judge. Though one of my interviewees attempted to put me in contact with Judge Kirby, who oversees the other Cook County Bond Court judges, I was unable to schedule an interview with him even after sending three follow-up emails. I feel my sample would also have benefitted from a Pretrial Services employee and a prosecuting attorney. However, my network and that of my interviewees did not extend far enough for me to obtain these interviews.

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<sup>75</sup> Holiday Bond Court is Bond Court with special hours that occurs on Court holidays.

I utilized a semi-structured interview style and recorded my interviews. I used semi-structured interviews to have points of comparison amongst the interviews, but I also sought flexibility in the conversations. I took advantage of each of my interviewees' unique vantage points and tailored my questions to them. The questions I used appear in Appendix D. I intentionally used open-ended questions so that I could stray from my prepared questions if an interesting topic arose. In addition, I knew I would not have the chance to interview any of my participants twice, so I needed to glean as much as I could from each interview. Each interview lasted approximately 30 minutes.

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#### PROTECTING ANONYMITY

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My jail snapshot data, though it is technically available to the public, includes full names and ages of the individuals in the jails. I will not use these full names or birth dates in my analysis for any purpose. The screenshots of my jail snapshots purposefully exclude the first name of the detainees. Additionally, I do not refer to my interviewees by their true names to preserve their anonymity.

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#### ANALYSIS AND RESULTS

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The most intuitive way to present the multiple data analysis methods is in the following format: first, a description of the analytical approach used followed by a finding in the form of a chart, graph, table, or other statistic gleaned from my data. This will be followed by an analysis of the findings in the context of my thesis to explain its relevance. Later, in the results section, I will discuss how these findings fit with one another and support the evaluation of General Order 18.8A.

### DATA CLEANING

For all data sets, no matter their source, I conducted analysis in Python using packages such as Matplotlib, Scipy, Numpy, and Statsmodels that aided me in statistical reasoning. I selected Python because I was familiar with it and because manipulating the large jail snapshots via Microsoft Excel often caused Microsoft Excel to crash.

Cleaning jail snapshot data was time-consuming. The raw spreadsheets from the FOIA request were very large. Each was over 30,000 rows and contained poorly formatted data with unnecessary and redundant information. Below are a few columns of the first few rows of the pre-cleaned 2016 jail snapshot data. A more complete view of jail snapshot data is found in Appendix C.

**Table 1: Excerpt of Raw Jail Snapshot Data**

<b>Last Admission Date</b>	<b>InmateLast</b>	<b>Age as of 1/8/2016</b>	<b>Days in Custody from Last Admission Date to 1/8/2016</b>	<b>circuitcourt docket</b>	<b>Charge Description</b>	<b>Statute</b>	<b>Charge Crime Type</b>	<b>CurrentBond</b>
3/26/07	Lane	34.48	3210	07CR081290 1	First Degree Murder:Intent Death/Great Harm	720 ILCS 5/9- 1(a)(1)	Class M Felony (Murder)	\$0
8/7/07	Johnson	33.53	3076	07CR184990 2	First Degree Murder:Intent Death/Great Harm	720 ILCS 5/9- 1(a)(1)	Class M Felony (Murder)	\$0
8/7/07	Johnson	33.53	3076	07CR185000 2	First Degree Murder:Intent Death/Great Harm	720 ILCS 5/9- 1(a)(1)	Class M Felony (Murder)	\$0

Columns containing data such as the Circuit Court Docket number, the Illinois Statute associated with the accused crime, and Cell ID were not useful for my analysis. I merged the first and last name columns to create unique identifiers for each inmate, and I extracted the columns Full Name, Age, Days Incarcerated, Crime Class, and Bail Amount. Combining the datasets for regression analyses proved more difficult in part because the Sheriff's Office did not use consistent formatting from year to year. Column titles used for the same data type varied from spreadsheet to spreadsheet. Because of this, I standardized the column titles in order to combine and compare the datasets.

Another problem stemmed from the fact that the majority of people in the jail datasets had multiple charges filed against them. Each charge had its own row and in some cases, its own bond amount. Hence, there were multiple rows per name. For my analysis, I needed to condense it to one row per person. Individuals with multiple charges were generally accused of more severe crimes and generally had higher bail amounts. I condensed each jail population snapshot so there was only one row per person which contained both their most severe crime and their highest bond amount, as they would have to pay at least that bond in order to be released. Below is a table showing how I ranked crimes by severity.

CRIME SEVERITY RANKINGS		
RANK	Crime Class	Description
1	Class M Felony (Murder)	
2	Class X Felony	
3	Class 1 Felony	
4	Class 2 Felony	
5	Class 3 Felony	
6	Class 4 Felony	
7	Class A Misdemeanor	
8	Class B Misdemeanor	
9	Class C Misdemeanor	
10	Petty Offense	Vehicle-related offenses
11	Violation of Probation	Non-bailable offense
12	Business Offense	Operating uninsured motor vehicle
13	NULL	Mis-entered data, missing charge types

The first nine Crime Classes have a well-established place in the Illinois State Statute and are easy to interpret and rank in severity. To interpret the latter four, I looked at the Charge Descriptions column associated with each of these Crime Classes in my jail snapshots. Of the more than 80,000 records across all of the raw datasets, these records made up 562 of them. Conveniently, most of these troublesome Crime Classes disappeared when reducing the jail snapshots to show only one row per person. These Crime Classes disappeared as they tended not to be the most severe charge an incarcerated individual had and hence were automatically deleted when consolidating the individuals to one record.

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#### MISDEMEANOR DEFENDANT ANALYSIS

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General Order 18.8A would not have an effect on unbailable defendants since they would not have been eligible for bail regardless. It also would not have an effect on any defendant deemed dangerous to the community, as judges tend to detain these people. I studied only defendants whose maximum crime rank was relatively low-level because General Order 18.8A

would have the largest effect on their pretrial outcomes. To do this, I analyzed the population of misdemeanor defendants in the jail. Felonies are crimes punishable by state prison terms of one year or more and are not always bailable offenses. Misdemeanors are punishable by a year or less and are always statutorily considered bailable. A misdemeanor in Illinois is any crime that is punishable by a term of less than one year in local or county jail.<sup>76</sup> Illinois lawmakers have designated misdemeanors as Class A, B, or C. To give a better idea of what these crimes are, I have included a table describing the maximum punishments that each crime class entails and an example of a crime from each level. To perform this analysis, I filtered out all felony defendants and kept only the defendants whose most severe crimes were Class A, Class B, or Class C Misdemeanors.

<b>Class</b>	<b>Jail Time</b>	<b>Probation Time</b>	<b>Fine Amount</b>	<b>Example</b>
Class A Misdemeanor <sup>77</sup>	Up to one year	Up to two years	Up to \$2,500	Prostitution
Class B Misdemeanor <sup>78</sup>	Up to six months	Up to two years	Up to \$1,500	Possession of two-and-a-half to ten grams of marijuana
Class C Misdemeanor <sup>79</sup>	Up to 30 days	Up to two years	Up to \$1,500	Possession of less than two-and-a-half of marijuana

To evaluate the misdemeanor population, it was necessary to see how many misdemeanor defendants were in the jail in each year when compared with the total jail population. My analysis showed a stark reduction in both the misdemeanor defendant population and the total

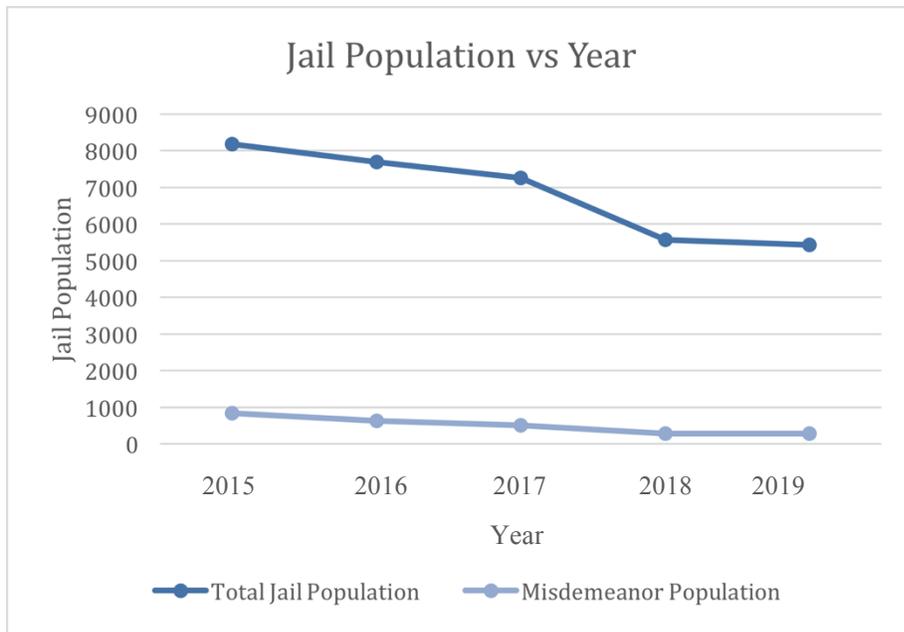
<sup>76</sup> 720 Ill. Comp. Stat. § 5/2-11; 730 Ill. Comp. Stat. §§ 5-1-14, 5/5-4.5-10.

<sup>77</sup> 730 Ill. Comp. Stat. § 5/5-4.5-55, 720 Ill. Comp. Stat. § 5/11-14

<sup>78</sup> 730 Ill. Comp. Stat. § 5/5-4.5-60, 720 Ill. Comp. Stat. Ann. § 550/4

<sup>79</sup> 730 Ill. Comp. Stat. § 5/5-4.5-65, 720 Ill. Comp. Stat. Ann. § 550/4

jail population after General Order 18.8A. The percentage of the jail population comprised of misdemeanor defendants also decreased. This means that because of the Order, more defendants were able to afford their bonds, which supports the efficacy of General Order 18.8A. The results can be seen in the graph and table below.



Year	Total Jail Population	Misdemeanor Population	Percentage Misdemeanor Population
2015	8173	833	10.2%
2016	7689	631	8.2%
2017	7251	515	7.1%
2018	5574	279	5.0%
2019	5428	276	5.1%

I then took a closer look at how General Order 18.8A affected the bond amounts and length of incarceration of misdemeanor defendants.

<b>Bond Table: Bond Amounts for Misdemeanor Defendants</b>					
<b>Year</b>	<b>Jail Population</b>	<b>Mean</b>	<b>Median</b>	<b>Minimum</b>	<b>Maximum</b>
<b>2015</b>	833	\$49,789.7	\$15,000.0	0	\$2,000,000.0
<b>2016</b>	631	\$53,263.7	\$15,000.0	0	\$2,000,000.0
<b>2017</b>	515	\$41,434.1	\$10,000.0	0	\$350,000.0
<b>2018</b>	279	\$22,716.3	\$10,000.0	0	\$350,000.0
<b>2019</b>	276	\$20,217.5	\$10,000.0	0	\$300,000.0

I used both the median bond and mean bond to evaluate the change in bond amounts. The median is less easily influenced by outliers. There are a few outliers in my dataset. One is the individual whose maximum bond amount was \$2 million. I went back through the jail snapshots to investigate and discovered that this individual was accused of "sex exploitation/child sex act," which is a Class A Misdemeanor. Since the mean bond is higher than the median bond, I can assume that the distribution of the bond amounts had a negative skew. Both the median bond and mean bond shows a significant reduction in bond amounts after General Order 18.8A. This is a good result—it shows empirically that bond amounts, in aggregate, decreased after General Order 18.8A.

The minimum bond in each column is \$0. However, this does not always mean that these individuals could be released for free. Instead, it means either that a judge gave them No Bond or that they are awaiting their bond hearing and have not received a bond decision yet.

Though this table shows that bond amounts decreased after the Order, it also shows that there are a substantial number of people still in jail for bailable, low-level offenses, which means that General Order 18.8A did not completely fix Cook County's over-reliance on pretrial incarceration.

<b>Incarceration Table: Days Incarcerated for Misdemeanor Defendants</b>						
<b>Year</b>	<b>Jail Population</b>	<b>Mean</b>	<b>Median</b>	<b>Minimum</b>	<b>Maximum</b>	
<b>2015</b>	833	70	24	1	1676	
<b>2016</b>	631	73	28	1	1842	
<b>2017</b>	515	58	18	1	766	
<b>2018</b>	279	40	19	1	453	
<b>2019</b>	276	27	13	1	427	

I used both median Days Incarcerated and mean Days Incarcerated to evaluate the change in length of jail stay. Again, the mean is higher than the median, indicating that the distribution of the bond amounts has a negative skew. Both the median Days Incarcerated and mean Days Incarcerated show a significant reduction after General Order 18.8A. This is a positive result—it shows empirically that people are spending less time in jail bond amounts, in aggregate, decreased after General Order 18.8A. However, both the mean and the median are too high and mean that many misdemeanor defendants are spending weeks or months in jail. This confirms the result from the Bond Table: that General Order 18.8A did not completely fix Cook County’s over-reliance on pretrial incarceration.

#### STATISTICAL TESTING COMPARING THE JAIL POPULATION PRE- AND POST-GENERAL ORDER 18.8A

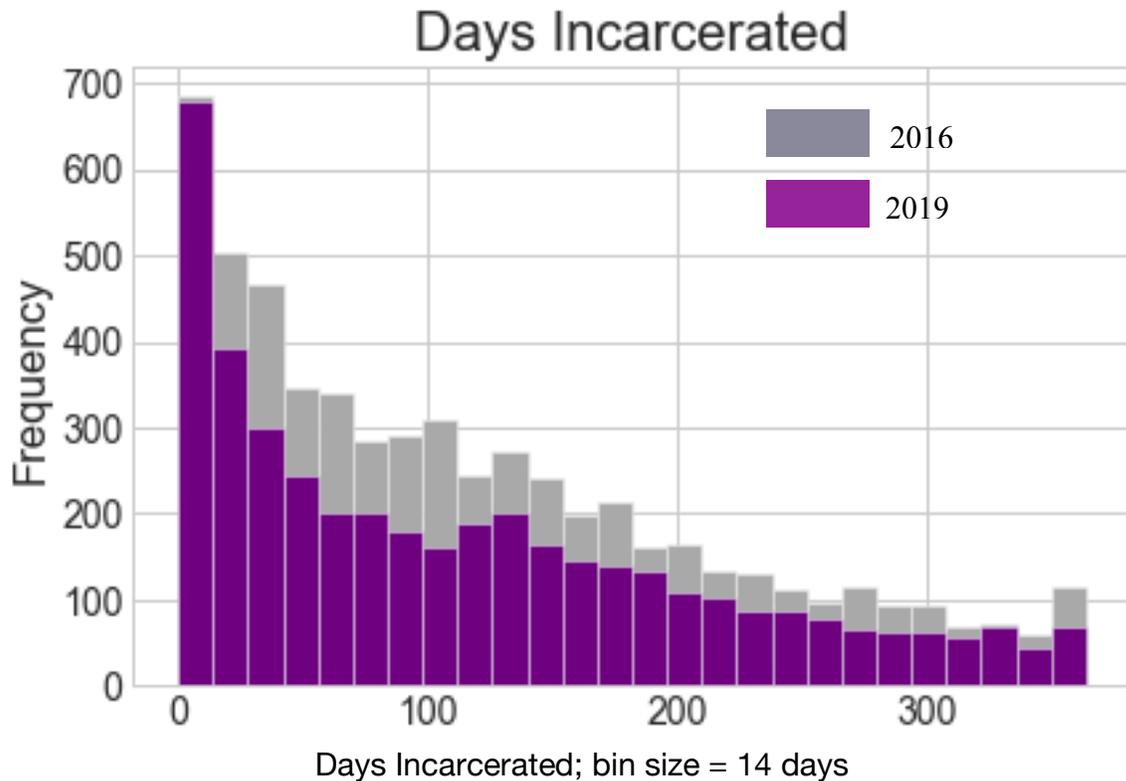
Published statistics show that after General Order 18.8A was enacted, the jail population dropped to its lowest level since 1988.<sup>80</sup> I was interested in learning more about the jail population than its sheer quantity. Did the length of time spent in jail decrease since the order was enacted? After all, General Order 18.8A was intended to make bail more affordable. If bail was more affordable, accused people would be released from jail sooner. I decided to compare

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<sup>80</sup> “SHIFTING SANDS: An Investigation into the First Year of Bond Reform In Cook County” (The Coalition to End Money Bond, September 18, 2018), <https://www.chicagobond.org/reports/ShiftingSands.pdf>.

the distributions of two histograms from two different years and opted to use the 2016 and 2019 jail snapshots for comparison. I used 2019 for two reasons: first, by 2019, General Order 18.8A had plenty of time to take effect. The jail snapshot from January 9, 2018, was taken less than three months after bail reform took effect, and hence, it included records of accused people in jail who had been detained for more than three months. Their incarceration and bail assignment began before General Order 18.8A went into effect. Hence, using 2018 would not be as useful in evaluating the order's impact. Second, 2019 data imparts an indication of General Order 18.8A has lasting effects. The data from the Chicago Data Collaborative only covered the three-month window around General Order 18.8A's enactment. The 2016 and 2019 snapshots are more or less equidistant from General Order 18.8A, and using 2016 and 2019 data will reveal if the effects of General Order 18.8A lasted beyond the smaller window of time around its enactment.

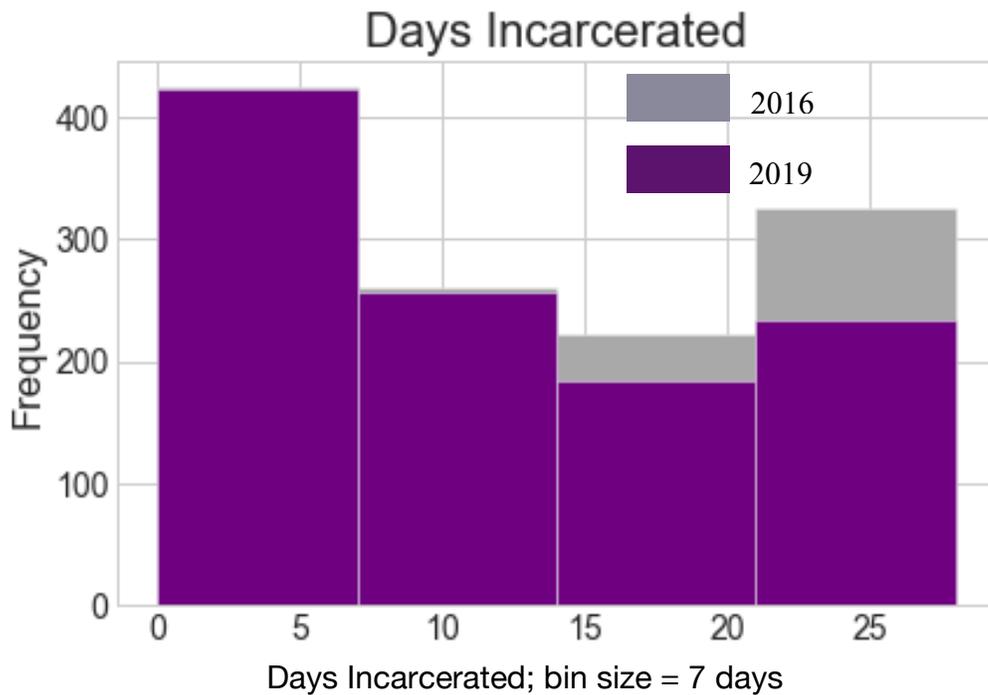
I first used a t-test to see if the difference in the mean length of incarceration in Cook County Jail in 2016 and 2019 was statistically significant. I calculated the t-test using the `scipy` module in `pandas`. My t-test showed that the difference in the means was significant at the 0.10 p-value significance level. The t-statistic was -1.75, and the p-value was 0.079, which is statistically significant at the 0.10 significance level. Below is the histogram displaying the difference in the distributions. On this histogram, it is clear to see there is a lower level of incarceration in 2019 than on the same date in 2018.



This histogram shows that the number of people detained in the jail for 14 days or less was very similar in 2016 and 2019. I wanted to take a closer look at this. According to General Order 18.8A, people who remain in jail after seven days because they cannot afford to pay their bail automatically receive a bail rehearing, with the possibility for the judge to amend the bail amount. The histogram below takes a closer look by halving the bin sizes and including only those in jail for a month or less to review the 7-day window after which an incarcerated individual is presumed to have their rehearing.

This histogram shows that there is minimal difference between 2016 and 2019 in the magnitude of the jail population in the first two weeks of incarceration. This means that if the

rehearing was taking place, it was having no effect. I could not learn more about the rehearing process from this data, so I resolved to ask about it in my interviews.



To visualize the difference between the above distributions was statistically significant, I used a chi-squared test. Since there were fewer bins, these distributions were a good candidate for a chi-squared test. I performed this test and received a chi-squared statistic of 19.48. With the appropriate degrees of freedom, the p-value was 0.000218, which is a highly significant result. This indicates that the 2016 distribution and the 2019 distribution are meaningfully different. My code for the chi-squared test is included below.

```

1 observed_table=pd.cut(b2019_one_name['Days Incarcerated'],
2                       bins = np.arange(0,32,7),
3                       right=True,
4                       labels = [0,1,2,3]).value_counts()
5 # Get population ratios
6 expected_ratios = expected_table/len(b2016_one_name[b2016_one_name["Days Incarcerated"]<=31])
7
8 observed = observed_table
9
10 # Get expected counts
11 expected = expected_ratios * len(b2019_one_name[b2019_one_name["Days Incarcerated"]<=31])
12
13 chi_squared_stat = (((observed-expected)**2)/expected).sum()
14
15 print(chi_squared_stat)

```

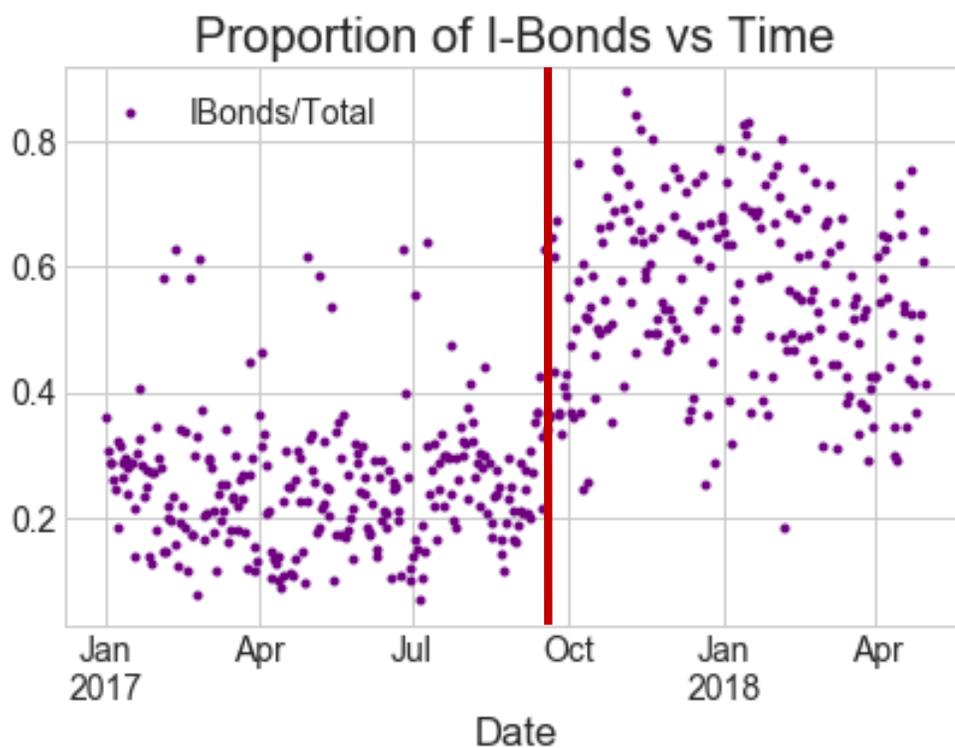
19.484397462424894

### BOND TYPES PRE-AND POST GENERAL ORDER 18.8A

To evaluate whether or not judges were more frequently using non-monetary bail, I used the Cook County Bond Court Data. This data contained information on what classes of bonds were assigned each day in Felony Bond Court between January 2017 and May 2018.

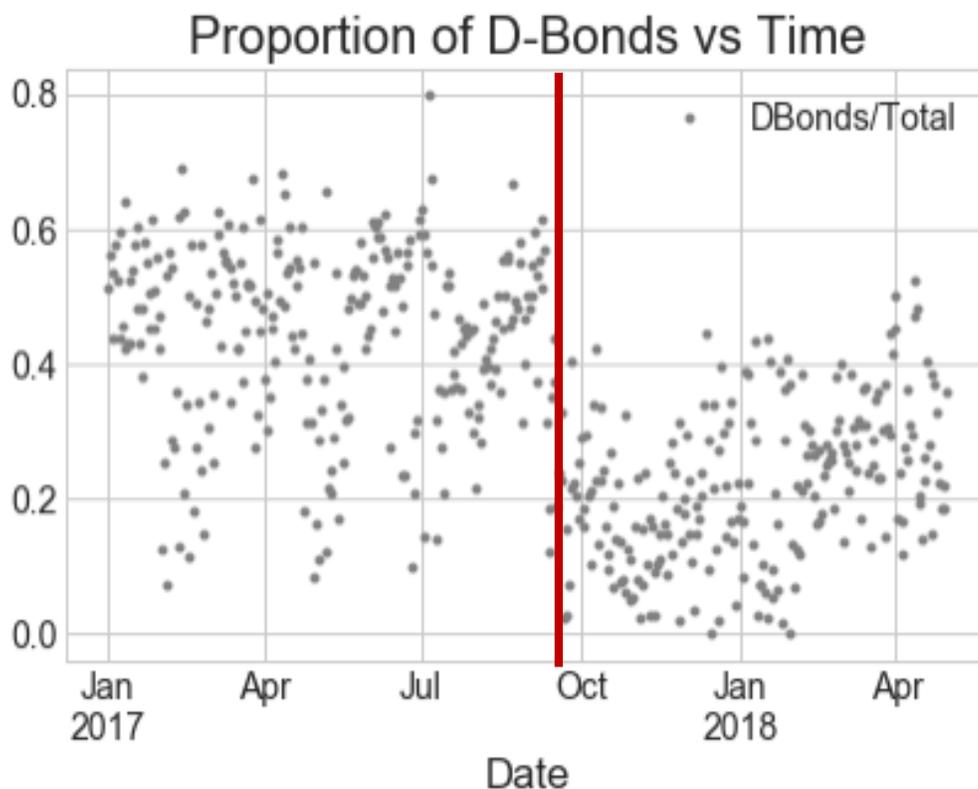
Compared to the jail snapshot data, this data was very clean. To manipulate it, I divided the number of I-Bonds from each day by the total number of bonds assigned each day to create the scatter plot below. I used the proportion of I-Bonds assigned rather than the number of I-Bonds assigned as the number of people receiving bonds varies greatly each day. Therefore, the proportion of I-Bonds is more informative than the number of I-Bonds.

$$\text{Proportion of I - Bonds} = \frac{\text{Number of I - Bonds}}{\text{Total Number of Bonds}}$$



The red line on this scatter plot marks the date of September 18, 2017, the date General Order 18.8A went into effect for Felony Bond Court. The scatter plot exhibits a significant shift at this point in time. The proportion of I-Bonds increased by 30% on and after this date. I made a second scatter plot to evaluate a change in the proportion of D-Bonds in a similar manner.

$$\text{Proportion of } D - \text{Bonds} = \frac{\text{Number of } D - \text{Bonds}}{\text{Total Number of Bonds}}$$



The trend in the proportion of I-Bonds appears to be opposite the trend proportion of D-Bonds. It is apparent from this scatter plot that judges are less frequently resorting to cash bail, and that a dramatic shift occurred on the day General Order 18.8A went into effect. The proportion of cashless I-Bonds increased simultaneously as the proportion of D-Bonds, which require defendants to pay cash in order to be released, decreased. This indicates that more people

were allowed out of jail pretrial without paying a cash bail after the reform than before the reform. This is an encouraging result.

	<b>I-Bond Proportion</b>		<b>D-Bond Proportion</b>	
	Before September 18, 2017	After September 18, 2017	Before September 18, 2017	After September 18, 2017
Mean	25%	55%	44%	22%
Median	24%	54%	47%	22%

The above table shows the exact changes in I-Bond and D-Bond proportions. The Order caused a 30% increase in the use of I-Bonds and a 20% decrease in the use of D-Bonds. Note that the percentages of I-Bonds and D-Bonds do not add up to 100%. The remaining percentage is comprised of No Bonds and C-Bonds. There was not a significant change in the rate of C-Bonds or No Bonds in this time period. C-Bonds made up less than 1% of bonds.

#### INTERVIEW ANALYSIS

Though my data analysis demonstrates that General Order 18.8A was having a positive effect, I sought more information on how court processes had changed since General Order 18.8A's implementation. For reference, I have again included the list of my interviewees' job titles. Several themes appeared in the interviews.

<b>Organization</b>	<b>Abbreviation</b>	<b>Job Title</b>
Cook County Public Defender	PD	Head of Policy
Cook County Public Defender	PD	Supervisor of Felony Trial Division
Cook County Public Defender	PD	Supervisor of Weekend and Holiday Bond Court
Chicago Community Bond Fund	CCBF	Executive Director
Illinois Justice Project	ILJP	Deputy Director

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### GENERAL ORDER 18.8A HAS HAD A POSITIVE IMPACT

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Those interviewees affiliated with the Public Defender's (PD) office generally had positive views of General Order 18.8A and its effects. The Policy Director of the PD's office even stated that Cook County has been "held up as an example of bond reform" due to the immediate drop in jail population following General Order 18.8A's implementation. They all expressed that the jail population decrease was a positive sign. The PD's Supervisor of Felony Trial Division noted that in her observation, after General Order 18.8A, the value of money bonds decreased. Before General Order 18.8A, "a class-four-gun case first-time offense came with a \$30k or \$100k [D] Bond. Now, [after General Order 18.8A] it's more \$10 or \$20k." The PD Holiday Bond Court Supervisor expressed that both public defenders and judges were much better at stating on the record what bond amount defendants were able to pay. In addition, if a judge set unattainable jail, they state their justification for doing so on the record, which "allows them to be held more accountable," according to the PD Holiday Bond Court Supervisor.

My interviewees express that much of General Order 18.8's success can be attributed to new bond court judges. On the day General Order 18.8A took effect, the Chief Judge Timothy Evans replaced all six bond court judges. My interviewees expressed positive sentiments about these judges. The Executive Director of CCBF attributed the immediate and drastic effect on the kinds of bail seen in my scatter-plot analysis of bail types entirely to the change in judges. She also mentioned that bond "hearings are longer now" under the new judges. The Deputy Director of ILJP agreed with this sentiment and said that the new judges "are following the law better." The PD's Supervisor of Felony Trial Court noted that bond amounts were much more consistent across the new judges than they were across the old judges, and that "bonds have gone down drastically" because of the judges.

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### GENERAL ORDER 18.8A HAS NOT ENTIRELY REFORMED THE SYSTEM

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All of my interviewees agreed that more work needs to be done to truly reform bail in Cook County. General Order 18.8A has not made it any easier to validate how much a defendant is able to pay. The PD Director of Policy expressed disappointment that there are still many defendants in jail on nonviolent, misdemeanor offenses. The CCBF Executive Director and the PD Holiday Bond Court Supervisor said the Order did not do enough to limit the use of monetary bonds. The interviewees expressed in sentiment that monetary bail had no benefit. The PD Holiday Bond Court Supervisor expressed that monetary bond “has no purpose.” It was her feeling that “if somebody doesn’t want to come back to court, they won’t,” regardless of the bond amount.

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### THE REHEARINGS ARE INEFFECTIVE

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Executive Director of the CCBF and the Deputy Director of ILJP alerted me to the fact that the rehearings for those unable to pay bond within seven days were rehearings in name only. According to the ILJP Deputy Director and the PD Felony Trial Court Supervisor, having a hearing seven days after bond court is not a new practice. It happened before General Order 18.8A. In fact, all defendants, regardless of whether they were released pretrial or not, have hearings seven days after bond court with a new non-bond-court judge, according to the PD Holiday Bond Court Supervisor. These hearings are called preliminary hearings, and their purpose is to test the sufficiency of the evidence against the defendant and to determine whether the case merits continued attention. While attorneys can ask judges to review bond amounts at the preliminary hearings, this is not the preliminary hearing’s primary purpose. “Bond adjustment rarely happens at preliminary hearings,” according to the PD Director of Policy. It

rarely happens for a few reasons. The ILJP Deputy Director stated that “judges don’t like to contradict other judges; they are a close-knit group.” When a judge revises a bond amount, they contradict another judge’s decision. The PD Policy Director said that revising bond amounts had to do with “politics, like everything else” that went on in the court. She also said that “most of the time the bond amounts either stay the same or go up” when public defenders attempt to change bond amounts at preliminary hearings. “Very rarely do the amounts go down,” she said. Hence, PDs are unwilling to appeal bond decisions. The PD Felony Trial Supervisor agreed, saying that, “there better be a good reason to appeal your bail.” She clarified that most judges at preliminary hearings do not think that the inability to pay bail because it is too high is a good enough reason.

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#### THE COURT SHOULD PROVIDE ACCESS TO INFORMATION

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Both the CCBF Executive Director and the ILJP Deputy Director said that the Cook County Court should release more data. The CCBF Executive Director lead the court watching initiative discussed earlier in this paper. She explained that she did this because court watching was “literally the only option we had to get data about bond court.” She said that legally, citizens do not have the right to FOIA request the court, and the court shares almost no data with either researchers or the public, even though, “the court has all the data we need” to evaluate General Order 18.8A most completely. She believes that “having data is absolutely essential to evaluate [General Order]18.8A or anything else that happens in the court.” She emphasized that the impetus to promote justice is the court’s, and citizens “should not have to rely on people sitting in court for hours” when all the data the court watchers attempted to obtain is already collected and stored, but not shared, by the court.

The PD Felony Trial Supervisor also believes more data would be useful, specifically for making sure that the different bond court judges are behaving in similar ways. According to her, before General Order 18.8A was enacted, “the bond amounts they [the judges] were setting were all over the place; there was no consistency.” Though things seem to be better now from her observation, without data on individual judges, we cannot quantitatively compare their actions. The PD Director of Policy also wanted the court to publish data. She was specifically interested in evaluating the effects of risk assessment scores on bond types and amounts.

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## FINDINGS AND DISCUSSION

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### FINDINGS

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Because of General Order 18.8A, the following occurred.

**Finding 1: The jail population decreased.**

My analysis of the change in both the total jail population and misdemeanor jail population show that both populations have decreased significantly because of General Order 18.8A. This decrease can also be seen in the histograms comparing 2016 and 2019 jail populations.

**Finding 2: Length of stay in jail decreased for both the misdemeanor defendants and for the other defendants in the jail.**

My analysis of the change in both the total jail population and misdemeanor jail population show that the average and median length of pretrial incarceration has decreased significantly because of General Order 18.8A. Additionally, my statistical testing of 2016 and 2018 jail snapshots show a statistically significant reduction in the jail population.

**Finding 3: Bond amounts for bailable defendants in the jail decreased.**

My interviews and misdemeanor defendant analysis showed that bailable defendants' bond amounts have decreased significantly since General Order 18.8A. This finding corresponds with a reduction in the misdemeanor jail population since defendants can more readily afford lower bond amounts. Hence, they can pay their bail sooner and leave jail sooner as well.

**Finding 4: There has been a complete reversal in the use of monetary D-Bonds in favor of switching towards non-monetary I-Bonds.**

Analysis of Cook County Bond Court's records showed that the rate of I-Bonds, which are cashless, dramatically increased, and the rate of D-bonds, which require payment, dramatically decreased because of General Order 18.8A. This finding is intrinsically connected to the successful decrease in the jail population. Defendants who receive I-Bonds are eligible for immediate release, and therefore, they do not become part of the jail population at all.

**Finding 5: Too many people still cannot afford their bail.**

My analysis of jail snapshots, including histograms of the jail population over time, line graphs of the jail population over time, and counts of misdemeanor defendant population over time show that though the jail population has decreased significantly, hundreds of bailable defendants are still incarcerated because they cannot afford their bail even after General Order 18.8A took effect. Not only are they incarcerated pretrial, but hundreds of people are incarcerated for weeks or even months. The median length of incarceration for a misdemeanor defendant was 13 days in 2019.

**Finding 5: Rehearings are ineffective.**

Interviewees expressed that the 7-day-bond-review hearing that General Order 18.8A calls for is not occurring and that public defenders are reluctant to ask for bond reviews. Judges are reluctant to contradict other judges, and hence they often disregard requests for reviewing a defendant's bail. This result explains why the histogram of the jail population comparing 2016 to 2019 used for the chi-squared test shows little reduction in population after the first week of incarceration.

**Finding 5: General Order 18.8A's Success Depended Heavily on the Judges' Cooperation.**

All of the bail in Cook County Central Bond Court is set by six bond court judges, and their decisions can only be undone by other judges. Six new judges began working in Cook County Bond Court on the day that General Order 18.8A took effect, and the reduction in D-Bonds and the increase in I-Bonds have been entirely their doing. In addition, it is up to them whether or not they will take a defendant's ability to pay into consideration before setting bail. Since judges dislike contradicting one another, the bail that the bond court judges set remains the same throughout a defendant's court proceedings in most cases.

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**CONCLUSION**

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My policy question asks to what extent Cook County's General Order 18.8A was a successful bail reform initiative with respect to how it affected the use of non-monetary bail, the speed of pretrial release, and the rates of pretrial release, especially for defendants considered "bailable." My findings show that in these metrics, General Order 18.8A had successes. Because of the Order, the rate of I-Bonds increased dramatically. Because the rate of I-Bonds increased, thousands fewer people were detained pretrial at all. In addition, there were fewer bailable defendants in the jail after General Order 18.8A than there were before General Order 18.8A.

These changes have been reflected in the decreasing jail population, decreasing average and median bond amounts, and decreasing length of incarceration.

However, the text of General Order 18.8A states that it was intended to ensure that no one would be held on bail pretrial purely because they could not afford their bail. By this metric, General Order 18.8A has failed. There are still people incarcerated on low-level offenses for long periods of time. In addition, the Order's success is tenuous and relies heavily on how a small number of judges implement and enforce it.

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## POLICY RECOMMENDATIONS

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### 1. RELEASE MORE COURT DATA

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My own analysis of General Order 18.8A had to use a multifaceted approach using data pulled from multiple sources. None of it came directly from the Cook County Court. I learned in my interviews that all of the data that could have made my analysis complete is recorded by the Cook County Court. However, the Court is currently exempt from Freedom of Information Act Requests, which is why nonprofits had to go so far as to recruit court watchers to observe Bond Court. As one of my interviewees stated, the impetus to uphold justice should be on the court system rather than on volunteer court watchers. The Cook County Court can better uphold justice by providing access to the data it keeps. Better data availability will also allow researchers and activists to evaluate the Court's processes to ensure the Court upholds justice.

There is a relevant policy that could make publicly available court data a reality, and it is currently up for debate in the Illinois State Legislature. If passed, HB 2869: The Pretrial Data

Act, will increase court transparency and accountability.<sup>81</sup> It will force courts to publish data regarding court administration of pretrial justice, including what kinds of bonds judges set in each jurisdiction and how many people are in jail awaiting trial because they cannot afford to pay a money bond. Under this bill, Clerks of the Court and Sheriff's Offices would submit monthly pretrial reports to the Illinois Criminal Justice Information Authority, which will then be made publicly available for five years.<sup>82</sup>

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## 2. CONDUCT MEANINGFUL REHEARINGS

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This Bachelor of Arts Thesis for the University of Chicago, demonstrates that Cook County Jail is incarcerating people pretrial for weeks and even months. Just a few days of incarceration places stress on a defendant's job, housing arrangement, and family connections, so it is important that Cook County drastically decrease the average length of pretrial incarceration. The speedy way in which Bond Court hearings are currently set up makes it difficult for judges to accurately evaluate how much defendants can pay for bail. Despite the efforts of General Order 18.8A, judges still set unaffordable bail. There needs to be a better, faster way for judges to amend bail decisions. Cook County Court should begin performing special rehearings separate from the preliminary hearings fewer than seven days after a person is first detained on bail. These rehearings should be devoted solely to amending bond amounts of people incarcerated pretrial because they cannot afford their original bond. This would allow bonds to be reduced more easily. Reducing bonds would allow more people to be released from jail sooner.

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<sup>81</sup> "Illinois General Assembly - Bill Status for HB5572," accessed September 29, 2017, <http://ilga.gov/legislation/billstatus.asp?DocNum=5572&GAID=13&GA=99&DocTypeID=HB&LegID=95001&SessionID=88&SpecSess=>.

<sup>82</sup> "Support for HB 2689 & HB 3347," *Coalition to End Money Bond* (blog), March 6, 2019, <https://endmoneybond.org/2019/03/06/support-for-hb-2689-hb-3347/>.

### 3. ELIMINATE THE USE OF CASH BAIL

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As shown in my literature review and data analysis, General Order 18.8A improved the pretrial justice system in Cook County, but it did not transform it in the way that was needed. In addition, its implementation relies heavily on the cooperation of Bond Court judges, who the Chief Judge can easily replace. Replacing the judges could cause any progress made by General Order 18.8A to reverse. True bond reform will require a more permanent policy that comes not from within the court, but from state or federal legislature, outside the court.

There is policy up for debate in the Illinois State Legislature that, if passed, will eliminate cash bail in Illinois. It is HB 3347, which is better known as the Equal Justice for All Act.<sup>83</sup> Under this Act, people accused of lower-level charges will be released directly from police custody, reducing the chances that they lose their jobs and lessening the burden on the courts. People arrested for more serious charges will be detained until their bail hearing, where judges will either decide to release the person on personal recognizance or deny the person release if they are believed to be dangerous or a flight risk. Policies nearly identical to this one have been put in place in Washington D.C. and California.<sup>84,85</sup> To quote the PD Holiday Bond Court Supervisor, “if someone doesn’t want to come back to court, they won’t.” Depositing an amount of cash to obtain release does not necessarily ensure someone’s future appearance at court, but requiring someone to pay a bond they cannot afford does ensure that they will suffer the conditions of incarceration and lose any stability their lives had prior to their incarceration. By

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<sup>83</sup> “Illinois General Assembly - Bill Status for HB3347,” accessed April 25, 2019, <http://www.ilga.gov/legislation/BillStatus.asp?DocNum=3347&GAID=15&DocTypeID=HB&LegId=119849&SessionID=108&GA=101>.

<sup>84</sup> Schnacke, “The Third Generation of Bail Reform.”

<sup>85</sup> Smith, “Condemned to Repeat History - Why the Last Movement for Bail Reform Failed, and How This One Can Succeed.”

replacing the current wealth-based system with a common-sense, evidence-based approach to justice for those presumed innocent, eliminating cash bail will ensure that all defendants will be treated fairly by the courts, regardless of their income.

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APPENDICES

APPENDIX A: FOIA REQUEST



**COOK COUNTY SHERIFF'S OFFICE  
FREEDOM OF INFORMATION ACT REQUEST**



DATE REQUESTED: 11/16/2018

REQUESTOR NAME: Hanna Carol Pfeiffer  
FIRST MIDDLE LAST

ADDRESS: 6031 S Ellis Ave Apt W439 Chicago. IL 60637  
NUMBER STREET APT. NUMBER CITY STATE ZIP CODE

DAY PHONE NUMBER: (502) 905-4701 CELL PHONE NUMBER: (502) 905-4701

E-MAIL ADDRESS: hcpfeiffer@uchicago.edu

METHOD REQUEST WAS SUBMITTED:  IN PERSON  U.S. MAIL  E-MAIL

**RECORDS SOUGHT** (please provide *as much specific detail* as possible so the public body can identify the information that you are seeking. You may attach additional pages, if necessary):

CASE/REPORT# \_\_\_\_\_ CASE/REPORT TYPE \_\_\_\_\_

**ADDITIONAL INFORMATION**

(Please include all Pertinent information such as *DATE OF BIRTH, SOCIAL SECURITY NUMBER*, etc. that can assist in expediting this request)

I would like a list of all individuals in Cook County Jail on January 9 in each year from 2008 to 2018. In a separate spreadsheet for each year, Please include Booking Date, Last Name, First Name Age as of the date, Days in custody as of the date, Circuit Court Docket, Charge Description, Statute, Charge, Crime Type, Current Bond, Total Bond, City, Zip. An example is attached in the email.

IS THIS REQUEST BEING MADE FOR A COMMERCIAL PURPOSE:  YES  NO

It is a violation of the Freedom of Information Act for a person to knowingly obtain a public record for a commercial purpose without disclosing that it is for a commercial purpose, if requested to do so by the public body. 5 ILCS 140.3.1(c).

**PLEASE RETURN YOUR REQUEST IN PERSON, VIA U.S. MAIL OR BY E-MAIL TO:**

COOK COUNTY SHERIFF'S OFFICE  
 ATTN: FOIA OFFICER  
 RICHARD J. DALEY CENTER  
 50 W. WASHINGTON, ROOM 704  
 CHICAGO, ILLINOIS 60602  
 E-Mail: [ccso.foiaofficer@cookcountyiil.gov](mailto:ccso.foiaofficer@cookcountyiil.gov)  
 For further inquiries, please call (312) 603-6444

PREFERRED RESPONSE:  IN PERSON  U.S. MAIL  E-MAIL

**FOR OFFICE USE ONLY:**

DATE RECEIVED: \_\_\_\_\_ REQUESTOR CONTACTED?  YES \_\_\_\_\_

EXTENSION: \_\_\_\_\_

DATE DUE: \_\_\_\_\_ DELIVERED VIA:  U.S. MAIL  E-MAIL  
 IN PERSON

DATE SENT TO REQUESTOR: \_\_\_\_\_ VERIFIED BY: \_\_\_\_\_



APPENDIX C: JAIL DATA SCREENSHOT WITH THE FIRST NAME REDACTED

Bookingdate	InmateLast	Age as of 1/9/2017	Days in Custody from Last Admission Date to 1/9/2017	circuitcourtdocket	Originalcircuitcourtdocket	ChargeDescription	Statute	ChargeCrimeType	CurrentBond	City	Zip
3/26/07	Lane	35.48	3577	07CR0812901	07CR0812901	MURDER/INTENT TO KILL/NIJURE	720 ILCS 5/9-1(a)(1)	Class M Felony (Murder)	\$0		60627
11/21/07	Daniel	56.09	3337	07CR2522401	07CR2522401	First Degree Murder;intends Death/Great Harm	720 ILCS 5/9-1(a)(1)	Class M Felony (Murder)	\$1,000,000		60615
3/14/08	Sims	31.24	3223	14CR0454201	14110702501	BRING/POSS CONTRA PENAL INST	720 ILCS 5/9-1(a)(1)	Class 4 Felony	\$250,000		
1/4/09	Townsend	26.30	2927	09CR0201901	09CR0201901	First Degree Murder;intends Death/Great Harm	720 ILCS 5/9-1(a)(1)	Class M Felony (Murder)	\$0	CHICAGO	60620
2/27/09	Manning	32.09	2873	08CR0203501	08CR0203501	First Degree Murder;intends Death/Great Harm	720 ILCS 5/9-1(a)(1)	Class M Felony (Murder)	\$2,000,000		60624
2/27/09	Manning	32.09	2873	09CR0552901	09CR0552901	AGG BATT/HARM/POUCE/DOC/DHS	720 ILCS 5/12-4(a)	Class 1 Felony	\$0		60624
2/27/09	Manning	32.09	2873	09CR0685302	09CR0685302	MURDER/INTENT TO KILL/NIJURE	720 ILCS 5/9-1(a)(1)	Class M Felony (Murder)	\$0		60624
2/27/09	Manning	32.09	2873	M09505382	M09505382	MURDER/INTENT TO KILL/NIJURE	720 ILCS 5/9-1(a)(1)	Class M Felony (Murder)	\$0		60624
2/27/09	Manning	32.09	2873	09CR0551301	09CR0551301	Agg Battery/Police/Sheriff Employee	720 ILCS 5/12-4(b)(18)	Class 2 Felony	\$900,000		60624
2/27/09	Manning	32.09	2873	07CR0936102	07CR0936102	AGG BTRY/HARM/PEACE OFFICER	720 ILCS 5/12-4(b)(18)	Class 2 Felony	\$0		60624
2/27/09	Manning	32.09	2873	W08-126476001	W08-126476001	MFG/DEL 1-15 GR COCAINE/ANLG	720 ILCS 5/11-34	Class 4 Felony	\$0		60624
2/27/09	Manning	32.09	2873	07CR2262001	07CR2262001	Prostitution	720 ILCS 5/11-34	Class 4 Felony	\$0		60624
5/14/09	Smith	41.70	2797	10600646801	10600646801	AGG DU/NO VALID DL	625 ILCS 5/11-501(a)	Class 4 Felony	\$0		60600
5/14/09	Smith	41.70	2797	10CR0633401	10CR0633401	Domestic Battery/Bodily Harm/Violation O/p	720 ILCS 5/12-3.2(a)(1)	Class X Felony	\$0	Chicago	60600
5/14/09	Smith	41.70	2797	09CR1006201	09CR1006201	AGG CRIM SEX ASSAULT/FELONY	720 ILCS 5/11-1.30(a)(4)	Class M Felony (Murder)	\$0	Chicago	60600
5/14/09	Smith	41.70	2797	12CR1672001	12112038601	MURDER/INTENT TO KILL/NIJURE	720 ILCS 5/9-1(a)(1)	Class M Felony (Murder)	\$300,000	Chicago	60600
5/14/09	Smith	41.70	2797	15CR0015501	14113484301	MURDER/INTENT TO KILL/NIJURE	720 ILCS 5/9-1(a)(1)	Class M Felony (Murder)	\$0	Chicago	60600
5/14/09	Smith	41.70	2797	09CR1006201	09CR1006201	MURDER/INTENT TO KILL/NIJURE	720 ILCS 5/9-1(a)(1)	Class M Felony (Murder)	\$0	Chicago	60600
5/14/09	Smith	41.70	2797	15CR0253401	15CR0253401	SOLICITATION/MURDER	720 ILCS 5/8-1.1(a)	Class X Felony	\$0	Chicago	60600
5/14/09	Smith	41.70	2797	16CR1854601	16112331001	AGG BATTERY/PEACE OFFICER	720 ILCS 5/12-3.05(d)(4)	Class 2 Felony	\$10,000	Chicago	60600
5/14/09	Smith	41.70	2797	10CR0077701	CPD/HOLD	AGG CRIM SEX ASLT/BODILY HARM	720 ILCS 5/11-1.30(a)(2)	Class X Felony	\$0	Chicago	60600
5/14/09	Smith	41.70	2797	12CR2184901	12113235001	WEAPON INTO PENAL INSTITUTION	720 ILCS 5/31A-1.1(2)(i)	Class 1 Felony	\$500,000	Chicago	60600
8/11/09	Montgomery	36.48	2708	09CR1581201	09CR15812	WEAPON SEX ASSAULT/WEAPON	720 ILCS 5/12-14(a)(1)	Class X Felony	\$0	Chicago	60637
1/8/10	Giers	40.31	2558	09CR1983401	09CR19834	First Degree Murder;intends Death/Great Harm	720 ILCS 5/9-1(a)(1)	Class M Felony (Murder)	\$0	Cngo	60612
2/4/10	Coulter	40.01	2531	10CR0905201	10600466901	MURDER/INTENT TO KILL/NIJURE	720 ILCS 5/9-1(a)(1)	Class M Felony (Murder)	\$10,000,000	Dolton	60419
2/4/10	Coulter	40.01	2531	08CR0190101	08CR01901	MURDER/INTENT TO KILL/NIJURE	720 ILCS 5/9-1(a)(1)	Class M Felony (Murder)	\$1,000,000	Dolton	60419
2/4/10	Coulter	40.01	2531	10CR0362601	106001323	Poss Firearm/No Fold/Eligible	430 ILCS 65/2(a)(1)	Class 3 Felony	\$1,000,000	Dolton	60419
2/4/10	Coulter	40.01	2531	10600132301	10600132301	Poss Firearm/No Fold/Eligible	430 ILCS 65/2(a)(1)	Class 3 Felony	\$1,000,000	Dolton	60419

APPENDIX D: INTERVIEW QUESTIONS

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1. Please describe your job and its function.
2. What are your general thoughts on bail reform?
3. What are your thoughts on General Order 18.8A?
4. Does General Order 18.8A seem to be working?
5. How lasting are 18.8A's effects?
6. Are you seeing judges reevaluate bond amounts after 7 days?
7. Walk me through the process of trying to appeal a client's bail.
8. Are judges asking about the ability to pay?
9. What are your thoughts about the new judges?
10. What does the process look like for a public defender on the day of the bond hearing?
11. How has the public defenders' job it changed because of 18.8A?
12. What do you think of Risk Assessments?
13. Who else do you know that I can talk to?
14. What kinds of policy would advance bail reform further?