

**JUSTICE**

**CAN'T WAIT**

*An Indictment of  
Louisiana's Pretrial  
System*

**ACLU**  
Louisiana



We dedicate this report to the countless people, families, and communities who have suffered because of Louisiana's pretrial system. We aim to work for meaningful changes to our criminal legal system, so no more Louisianans sacrifice their lives, time, money, and belongings for freedom.

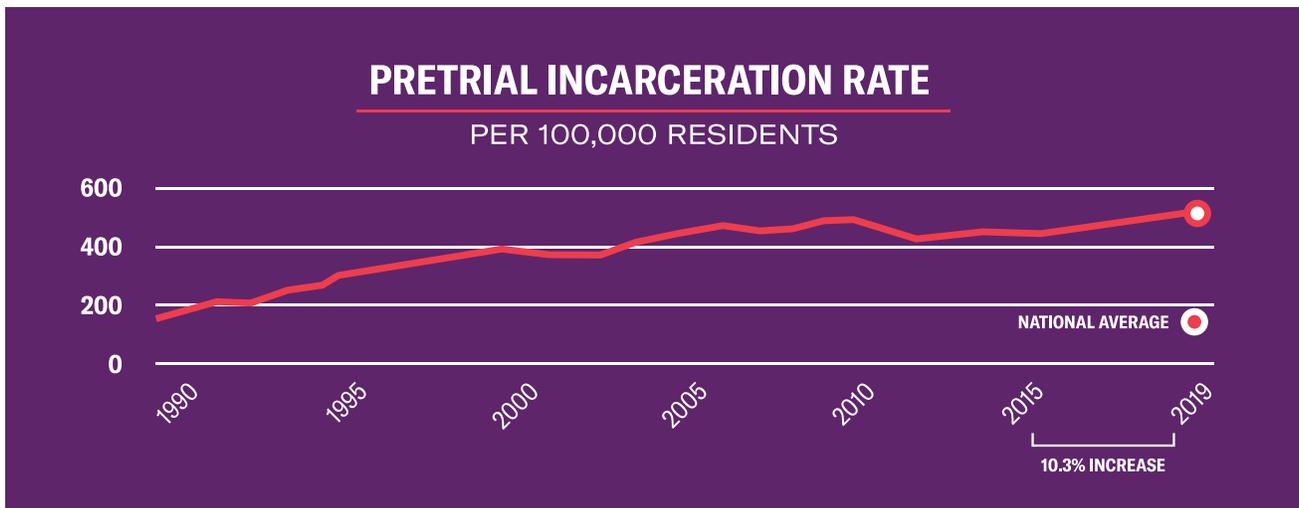


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# Executive Summary



Louisiana has long been the incarceration capital of the world, home to notorious sprawling state prisons and an extensive network of jails, which together house tens of thousands of people serving criminal sentences. Although much is known about the state prison population, there has been very little statewide analysis of who Louisiana incarcerates pretrial — people who are considered innocent in the eyes of the law yet await their trial behind bars.

Over the past two years, the ACLU of Louisiana has gathered and analyzed thousands of jail records and interviewed people directly affected by pretrial incarceration to compose a snapshot of who

Louisiana incarcerates pretrial, for how long, and at what cost.

We discovered that for every 100,000 Louisianans aged 15-64, 502 people are in jail pretrial, at an annual cost to taxpayers of nearly \$290 million. Louisiana's pretrial incarceration rate has grown 10.3 percent since 2015, giving the state the highest pretrial incarceration rate of any state on record since 1970, and a rate more than three times the national average.<sup>1</sup> Data suggest our ballooning jail population is driven in part by the excessive periods of time that people are held while their cases are pending.

Jailing our people at such an overwhelming rate has painful human and financial costs, and it rips apart our community.

<sup>1</sup> The national per-capita pretrial incarceration rate is 146 per 100,000 people. Louisiana's rate is 502. Roy Walmsley, *World Pre-Trial/Remand Imprisonment List Third Edition 5* (2014), [https://www.prisonstudies.org/sites/default/files/resources/downloads/wp tril\\_3rd\\_edition.pdf](https://www.prisonstudies.org/sites/default/files/resources/downloads/wp tril_3rd_edition.pdf).

## Key Findings

Louisiana's pretrial incarceration rate has grown <b>10.3 PERCENT</b> in the last four years.	Pretrial incarceration costs Louisiana taxpayers nearly <b>\$290 MILLION PER YEAR.</b>	The median bail for a person held pretrial in Louisiana is <b>\$24,000.</b>	<b>DRUG POSSESSION</b> was the most common charge of people incarcerated pretrial in Louisiana.
Black boys and men aged 15-24 are <b>5 TIMES MORE LIKELY</b> to be jailed following arrest than white boys and men of the same age.	Overall, Black Louisianans in our sample had spent <b>36 PERCENT</b> more time in jail pretrial than white people.	Among the jail records we obtained, the average length that a person had been behind bars, with no trial or conviction, was <b>5 ½ MONTHS.</b>	Black Louisianans are <b>MORE THAN TWICE AS LIKELY</b> to be jailed pretrial than white Louisianans.

Thousands of Louisianans languish in parish jails based on arrests for non-violent offenses, simply because they cannot afford money bail. Our analysis indicates that drug possession was the most common charge among people incarcerated pretrial in Louisiana, and 57 percent of people in jail had been arrested for non-violent offenses.

Even one day in jail can upend someone's life, causing unemployment or loss of housing.<sup>2</sup> Yet prosecutors in Louisiana have between 45 and 60 days to bring formal charges against a person accused of most crimes and an additional month before arraignment. The people represented in our sample had spent an average of 5 ½ months behind bars without trial or conviction.

The racial injustice in Louisiana's pretrial system shocks the conscience. Black Louisianans are more than twice as likely to be jailed following arrest than white Louisianans. And, overall, Black Louisianans in our sample

had spent 36 percent more time in jail. Among boys and men aged 15-24, Black boys and men were 5 times more likely to be jailed pretrial than white boys and men of the same age group. In some parishes, young Black boys and men were up to 20 times more likely to be jailed. These racial disparities entrench and widen systemic inequity.

Excessive bail is at the root of pretrial injustice. In our current system, people have no choice but to pay bail in order to avoid jail while their case is pending. The median annual income in Louisiana is only \$27,027, but the median bail set for people locked in jail is \$24,000.<sup>3</sup> Often, excessive bail amounts flow

PRETRIAL INCARCERATION  
COSTS LOUISIANA TAXPAYERS  
**\$289,894,975.65**

<sup>2</sup> W.H. Dobbie et al., *The Effects of Pretrial Detention on Conviction, Future Crime, and Employment: Evidence from Randomly Assigned Judges* 108 Am. Econ. Review 201, 202 (2018).

<sup>3</sup> Associated Press, *Census: Louisiana Remains 1 of Nation's Poorest States*, U.S. News and World Report (Sept. 27, 2019), <https://www.usnews.com/news/best-states/louisiana/articles/2019-09-27/census-louisiana-remains-1-of-nations-poorest-states>.

# 57%

OF PEOPLE IN JAIL HAD  
BEEN ARRESTED FOR  
NON-VIOLENT OFFENSES.

downstream to family members, especially women. Desperate to bring their loved ones home, families have mortgaged their homes, often their most valuable (and sometimes only) asset, to raise the money required. If people cannot pay bail, they stay in jail, not because they are guilty, but because they are poor.

The effects of jail, and its disproportionate effects on Black Louisianans, women, people with chemical dependency, and poor people, cannot be overstated. Even if charges are eventually dropped, jail time can mean a lost job, lost income, eviction, loss of relationships, and even loss of child custody. The consequences of time in jail are so dire that people jailed pretrial are more likely to plead guilty, even when they are actually innocent, just so they can be released. Many are haunted by a criminal record as a result.

The current system is straining our communities, clogging overburdened institutions, and violating people's dignity.

But, we know that it doesn't have to be this way. State and local officials can act right now to reverse Louisiana's pretrial incarceration epidemic.

# Overview of Policy Recommendations

## STATE LEGISLATIVE RECOMMENDATIONS

### Transparency and accountability

1. Require standardized reporting of pretrial jail data from every parish.

### Reduce arrests

2. Enact a statutory presumption of summons in lieu of arrest for most misdemeanors and some felonies.

### Bail reform

3. Repeal Article 315 of the Louisiana Code of Criminal Procedure, which authorizes the use of unconstitutional one-size-fits-all bail schedules.
4. Amend Article 316 of the Louisiana Code of Criminal Procedure to reflect the constitutional standard for setting bail and strengthen procedural protections against

unaffordable bail and unwarranted pretrial incarceration.

5. Amend Article 321 of the Louisiana Code of Criminal Procedure to eliminate blanket prohibitions on judges releasing certain persons on personal recognizance or unsecured bail.

### Reduce time to charge and arraignment

6. Amend Article 701 of the Louisiana Code of Criminal Procedure to shorten the period of time the state has to file charges and bring the person before a judge for arraignment.

### Racial justice

7. Require racial impact statements for any legislation related to the criminal legal system.

## RECOMMENDATIONS FOR LOCAL GOVERNMENTS

### Reduce arrests

8. Limit arrests for non-violent offenses correlated with poverty, homelessness, and chemical dependency.
9. Local jurisdictions should consider instituting amnesty for warrants stemming from unpaid fines and fees.

### Reduce time to charge and arraignment

10. Adopt local policies reducing the local time periods for charging and arraigning a person following arrest.

### Bail reform

11. Eliminate reliance on bail schedules and institute policies for making bail

and release determinations that conform with constitutional standards.

12. Eliminate policies establishing blanket categories of mandatory detention.
13. If considering implementing a risk assessment tool, ensure thorough study of the tool's predictive value, training for officials interpreting its estimates, and regular assessment.
14. Ensure no person is jailed pretrial for a longer time than the maximum sentence allowable for the underlying arrest or charge.

15. Adopt policies requiring that prosecutors turn over all files related to the charges as soon as a charging decision is made.

**Reduce barriers to compliance with supervision and release conditions**

16. Adopt court scheduling systems that enable people to receive court date reminders and easily reschedule their court dates.

17. Adopt or expand the use of pretrial diversion programs and waive all fees for participating in those programs.

18. Strictly limit the use of pretrial supervision to those cases when there is evidence that it is necessary. Eliminate all fees for drug testing, court evaluations, and pretrial diversion programs.

19. Permit people to appear remotely or via counsel for court proceedings when physical appearance is not necessary.

20. Communicate with people who have patterns of failing to appear and consider diversion to specialty courts or amnesty whenever appropriate.

21. Negotiate contracts for phone service in jails that make it affordable for people to maintain contact with their families and support networks.

**Transparency and accountability**

22. Make available key data on who is incarcerated pretrial, why, for how long, and at what cost.

23. Require documentation of prosecutors' decisions throughout the pretrial process, including decisions whether to file or dismiss charges, what charges to file, and recommendations for a person's pretrial detention or release.

# Glossary<sup>4</sup>

Pretrial laws include specialized terms or phrases. Using specialized language can sometimes lead to confusion or misuse. While we recognize that jurisdictions employ practices that may differ from these definitions, our intention is to provide a general definition to readers unfamiliar with the legal system.

- **Arraignment** – A person accused is read the criminal charge or charges against him or her and asked to enter a plea.
- **Bail** – The release of a person from custody prior to trial in exchange for a promise to reappear for future court appearances, and often with additional conditions such as a promise to pay money upon a failure to appear, or the posting of money bail in exchange for release.
  - » In this report, any financial condition of release is referred to as “money bail.”
- **Bail Bond** – An agreement between the person accused and the court or between the person accused, a surety, and the court to assure the person’s appearance in court.
- **Due Process** – The right of people to be protected from arbitrary or unfair government action.
- **First Appearance** – While practices vary greatly, a first appearance usually includes an advisement of the person’s rights, a recitation of charges upon which a person was arrested, and bail setting.
- **Least Restrictive Conditions** – The concept that restrictions on a person’s freedom before trial should be limited to only those restrictions that are clearly needed to prevent a person from fleeing or harming a person, and should be tailored to the circumstances of the individual case.
- **Presumption of Innocence** – The fundamental principle that the person accused of a crime is not required to prove their innocence.
- **Pretrial** – The period of time between arrest and before trial.
- **Release on Recognizance** – A written promise signed by the person accused promising that they will show up for future court appearances.
  - » The technical term for ROR in Louisiana is “unsecured surety bond.”
- **Summons** – A police-issued order to appear before a judge to defend against a charge.

## A NOTE ABOUT HUMANIZING LANGUAGE:

We use “people-first” language in this report to remind us of our shared humanity and that people’s lives are at stake in Louisiana’s pretrial system.<sup>5</sup>

Instead of using the terms “defendant” or “pretrial inmate,” which are legally accurate, we use “person incarcerated pretrial.” This is because we are all people first. Whatever our incarceration status or our legal status, those things do not define us.

We also use the term “person with chemical dependency” to note that a person’s condition, illness, or behavior is “only one aspect of who the person is, not the defining characteristic.”<sup>6</sup>

4 These definitions were adapted from the Pretrial Justice Institute. Pretrial Justice Instit. *Glossary of Terms and Phrases Relating to Bail and the Pretrial Release or Detention Decision* (2015), <https://university.pretrial.org/libraryup/glossary>.

5 Resources for Humanizing Language, The Osborne Ass’n, <http://www.osborneny.org/resources/resources-for-humanizing-language/> (last visited Feb. 9, 2020).

6 Lauren M. Broyles et al., *Confronting Inadvertent Stigma and Pejorative Language in Addiction Scholarship: A Recognition and Response*, Substance Abuse, 2014, at 217.

# What Do We Stand For?

Louisiana’s pretrial system flouts the Constitution and what we stand for as Louisianans: family, individual liberty, economic opportunity, and equality.

Sadly, the rule in Louisiana is liberty for those who can afford it, and jail for everyone else. And it’s getting worse.

Our research has revealed an alarming upward trend in jailing people who are no threat to public safety. We also discovered staggeringly disproportionate effects on Black Louisianans, poor people, women, and people with chemical dependency. The system threatens our shared values and is bleeding taxpayer money.

Most people languishing in parish jails are not there because they are guilty of a crime, but because they are poor and cannot afford money bail. Every day, people accused of crimes are treated differently based on how wealthy they are. Those who cannot afford to pay bail or hire a private attorney are jailed indefinitely, while those who can pay go free. Instead of embracing our stated values of freedom and justice, our state’s pretrial

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“There can be no equal justice where the kind of trial a man gets depends on the amount of money he has.”<sup>7</sup>

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system degrades them, for “there can be no equal justice where the kind of trial a man gets depends on the amount of money he has.”<sup>7</sup>

There are also immense human costs.

## THROUGHOUT THIS REPORT WE’LL HEAR FROM:

- **Aaron**, who is trying to create a future for himself;
- **Remedia (Remy)**, an aspiring writer;
- **Alfred**, who turned his experiences into a force for community change;
- **Roy**, who began organizing after his release;
- **Keith**, who struggled with chemical dependency and is passionate about supporting people with the same disease;
- **Helen**, a devoted mother;
- **Roland**, who wants to mentor youth;
- **Michael**, who enjoys the peace that comes with helping people;
- **Rev. Alexis Anderson**, an activist committed to change;
- **Chareese**, who has prioritized bail and pretrial reform through her work at The Bail Project; and
- **Ashley**, who also works at The Bail Project, making freedom possible for people.

These eleven people come from across Louisiana, from various walks of life. The common thread linking them is their firsthand knowledge of Louisiana’s unjust and oversized pretrial jail system. They have either lived through the state’s pretrial incarceration epidemic or provide direct support to those who have. They understand all too well what it is doing to the people of our state.

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<sup>7</sup> *Griffin v. Illinois*, 351 U.S. 12, 19 (1956).

# AARON'S STORY

While scrolling Facebook one night in 2016, Aaron Casey learned that his best friend had been killed. He did not expect that this horrific experience would lead to his own devastating encounter with Louisiana's pretrial system.

Aaron had just seen his best friend, Alton Sterling, moments ago at a food mart in the heart of Baton Rouge, where Aaron often met with Alton. For years, he and Alton would get together nearly every day. Sometimes, in the fall, they would go to LSU football games.

Soon, the name Alton Sterling would resonate the way Mike Brown, Philando Castile, Walter Scott, Freddie Gray, and Sandra Bland do. Videos of former Baton Rouge Police Officer Blane Salamoni shooting into Alton's chest at point-blank range fueled protests in Baton Rouge and across the country.

But none of that had yet happened when Aaron first saw video of his best friend bleeding to death on the ground in front of the food mart. Aaron rushed to the scene of the killing just after midnight and mourned with dozens of other people who knew Alton. It was the first protest Aaron had ever participated in.

He didn't think that showing up to protest for his best friend would lead to jail. But a few hours later, Aaron said police rushed to arrest him for theft, which he said was a mistake. It was the start of a years-long struggle to escape the grip of Louisiana's criminal legal system.

For four months, Aaron was unable to post bail and was held in the East Baton Rouge Parish Prison, one of the state's deadliest.<sup>8</sup> Finally, he was able to come up with the money, and he remained free until January 2019. That's when he was picked up on an old warrant in Orleans Parish and booked into jail.<sup>9</sup> As a result of his incarceration in New Orleans, Aaron missed a court date related to his old charges in Baton Rouge, triggering the Baton Rouge court to issue another warrant for his arrest.

Aaron was transferred back to Baton Rouge and was incarcerated for the next seven months, unable to post bail. He lost everything in that time: his business, his apartment, and four cars that were under his name. In a matter of months, in the midst of mourning his best friend's killing, Aaron's whole life was decimated by pretrial

incarceration. "I was hurt extra," he said. "Both ways."

Tragically, we have found that Aaron's story—presumed innocent of a relatively minor crime yet languishing behind bars as weeks or months pass by—is commonplace in Louisiana.



Photo by: Maina Kiai

8 Andrea C. Armstrong, Dying in East Baton Rouge Parish Prison (Loyola Univ. New Orleans Coll. of L. Research Paper No. 2018-12), <https://ssrn.com/abstract=3237620>.

9 Louisiana has parishes, not counties.

# Examining the State of Pretrial Incarceration in Louisiana

Louisiana has the highest per capita incarceration rate in the world,<sup>10</sup> costing the state \$600 million dollars every year.<sup>11</sup> Mass incarceration in Louisiana, particularly as it relates to our post-conviction and sentencing laws, is well-documented.

But what about the front end of the system? Because of our state's overwhelming post-sentence incarceration rate, many have suspected that our state may also be experiencing a pretrial incarceration epidemic.

However, gaining a clear and comprehensive view of Louisiana's pretrial system is very difficult. Data on jail admissions and lengths of stay are kept within each parish, and there are no standardized data maintained at the state level. That means that, until now, there has been no single reliable dataset to describe who

is in Louisiana's jails, why, for how long, and at what cost to taxpayers.

The pretrial system covers the time after an arrest but before trial. Despite our constitutional right to be presumed innocent, 540,000 people are incarcerated pretrial in this country.<sup>12</sup>

In Louisiana, the situation is especially dire.

After 105 public records requests, interviews with directly impacted people and activists, and analyzing thousands of records from 42 parishes, we are one step closer to "turning the light of truth" on this epidemic.<sup>13</sup>

The data confirmed what we suspected: Louisiana has a pretrial incarceration crisis. For every 100,000 people in Louisiana aged 15-64, 502 are incarcerated pretrial—3.4 times greater than the national average.<sup>14</sup> National

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10 U.S. Dep't of Justice, NCJ 252156, Prisoners in 2017 (2019).

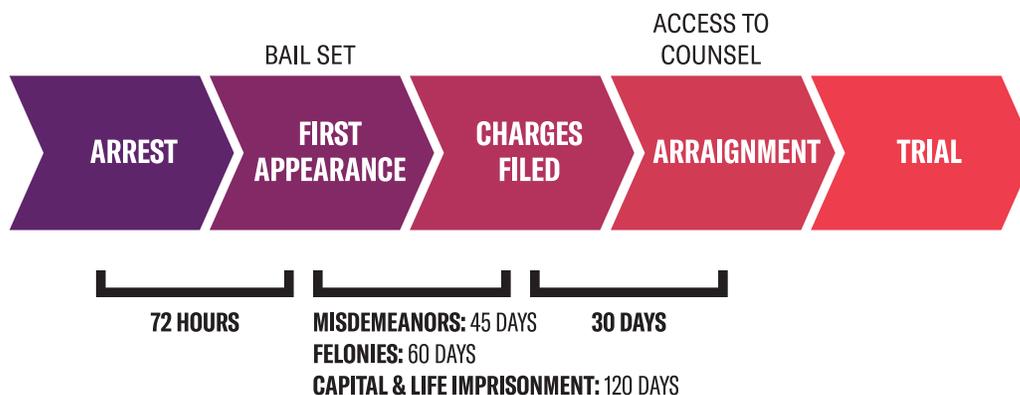
11 Chris Mai & Ram Subramanian, The Price of Prisons, Vera Institute of Justice 8 (May 2017), <https://www.vera.org/downloads/publications/the-price-of-prisons-2015-state-spending-trends.pdf>.

12 Prison Policy Initiative, Mass Incarceration: The Whole Pie 2019, <https://www.prisonpolicy.org/reports/pie2019.html> (last visited Feb. 9, 2020).

13 This phrase was first used by Ida B. Wells-Barnett, an African-American journalist who wrote against lynchings in the South.

14 Walmsley, *supra*, note 1.

# OVERVIEW OF THE PRETRIAL PROCESS



research from 2015 found that Louisiana was the second highest pretrial incarcerator in the nation, with a rate of 455 per 100,000 at that time.<sup>15</sup> In just four years, the rate has grown by 10.3 percent, putting the state’s pretrial incarceration rate higher than any state on record since the U.S. Department of Justice began its Census of Jails in 1970.<sup>16</sup>

Louisiana’s pretrial incarceration epidemic also imposes an immense financial burden on taxpayers and an already stretched public treasury.

Our research shows that on average, each day a person is incarcerated pretrial in Louisiana costs \$52.29. With an estimated 15,189 people jailed pretrial on any given day, Louisiana taxpayers spend \$794,232 each day—\$289,894,975.65 annually—to maintain the state’s ballooning pretrial incarceration system. Unnecessarily long jail stays appear to drive some of these costs. The people represented in our sample of jail records had spent an average of 5 ½ months in jail with no trial or conviction.

Jailing our people at an unprecedented rate diverts resources from other public services.

And because decisions to jail or release people in Louisiana are mostly based on how much money they have, not whether they pose any danger, pretrial incarceration has no rational connection to public safety. Louisianans would be better served by investing in evidence-based services that enrich our communities, make people healthier, and promote public safety.

Louisianans know firsthand the significant cost savings that come with reducing incarceration. In the first two years following the state’s passage of Justice Reinvestment Initiative legislation in 2017, Louisiana reduced its prison population by thousands, saving taxpayers nearly \$30 million.<sup>17</sup> Shrinking the state’s massive pretrial jail population would come with its own significant savings.

**In just four years, Louisiana’s pretrial incarceration rate has grown by 10.3 percent, putting the state’s pretrial incarceration rate higher than any state on record since the U.S. Department of Justice began its Census of Jails in 1970.**

15 Vera Instit. of Justice, *Pretrial jail incarceration rate*, Incarceration Trends (Feb. 18, 2020, 4:07 PM), <http://trends.vera.org/incarceration-rates?data=pretrial&geography=states>.

16 *Id.*

17 Grace Toohey, *Louisiana sees rise in savings, further drop in prison population from 2nd year of justice reforms*, The Advocate (July 19, 2019), [https://www.theadvocate.com/baton\\_rouge/news/crime\\_police/article\\_7759e8a6-aa73-11e9-ad85-470066e75115.html](https://www.theadvocate.com/baton_rouge/news/crime_police/article_7759e8a6-aa73-11e9-ad85-470066e75115.html)

Significant reforms to our state’s pretrial system are critical to reducing the number of people incarcerated, stewarding taxpayer money, and making good on our shared values.

## Disproportionate harm

Although anyone can be jailed pretrial, Black Louisianans, women, poor people, and people with chemical dependency suffer at extreme levels.

It is not a coincidence that the communities most likely to languish in our state’s pretrial system also suffer in other areas. Poverty, unemployment, and incarceration are all intertwined. Overall, people from marginalized communities are more likely to be arrested and incarcerated and less likely able to afford bail or competent legal representation. Any effort to reform the pretrial system must be examined through a racial, gender, and socioeconomic intersectional<sup>18</sup> lens.

## Race and Pretrial Incarceration in Louisiana

The racial inequity in Louisiana’s pretrial system shocks the conscience. Black Louisianans are more than twice as likely to be jailed following arrest than white Louisianans.<sup>19</sup> Among boys and men aged 15-24, Black boys and men are 5 times more likely to be jailed following arrest than those who are white.<sup>20</sup> The greatest disparity is in Orleans Parish, where, for every one white boy or man jailed from this age group, there are 20 who are Black.<sup>21</sup> In Pointe Coupee Parish, Black boys and men are 19 times more likely to be jailed pretrial.<sup>22</sup>



Photo by: Abdul Aziz

We also found that even in parishes that incarcerate fewer Black people than white people as a sum-total, racial disparity is deep. For example, the Jefferson Davis Parish Sheriff’s Office reported 50 Black people incarcerated pretrial and 79 white people incarcerated pretrial. At first glance, it may seem that the parish incarcerates fewer Black people pretrial, as they make up only 36 percent of the jail’s pretrial population. However, Black people represent only 16.6 percent of the parish’s population,<sup>23</sup> meaning that they are overrepresented in jail more than two-fold.

Among those people represented in our snapshot, Black people had spent 36 percent more time in jail pretrial than white people.<sup>24</sup> While white people had spent a median of 2 ½ months behind bars, Black people had spent a median 3 ½ months behind bars.<sup>25</sup>

Although racial inequity in Louisiana may be particularly severe, our findings corroborate national research indicating racial disparity in the pretrial system. For example, one study found that Black defendants were 80 percent less likely than white defendants to be released on their own recognizance (“ROR”) without a monetary bail obligation.<sup>26</sup>

18 Intersectionality is a theoretical framework for understanding how aspects of one’s social and political identities might combine to create unique modes of discrimination. The term was coined by Kimberlé Crenshaw, an African American law professor.

19 Analysis of data submitted in response to an Aug. 19, 2019 ACLU of Louisiana public records request.

20 *Id.*

21 *Id.*

22 *Id.*

23 U.S. Census Bureau, QuickFacts: Jefferson Davis Parish, Louisiana (2019).

24 The ACLU of Louisiana, *supra*, note 19.

25 *Id.*

26 Tina L. Freiburger & Carly M. Hilinkski, *The Impact of Race on the Pretrial Decision*, 35 Am. J. of Crim. Just. 76-86 (2010).

In Louisiana, those who are employed have significantly better odds of ROR. Being employed full time is an indication of a person’s stability and ties in the community, which are factors that judges often consider when setting bail. Applying these factors, however, has a disproportionate effect on Black people. Eight percent of Black people in Louisiana are unemployed, more than twice the rate of white people in this state.<sup>27</sup> The unemployment rate among Black men in New Orleans often approaches 50 percent.<sup>28</sup> Unemployment itself can be a factor weighing against pretrial release, and it also means a person is less likely to have enough money to buy their freedom by posting bail. Poverty and unaffordable money bail are significant obstacles to freedom for Black Louisianans.<sup>29</sup> In this way, our state’s pretrial system further traps those without jobs in a cycle of poverty, unemployment, and incarceration.

Judges also consider a person’s past contact with law enforcement when determining if a person will be released pretrial.<sup>30</sup> However, Black communities experience over-policing and disproportionate arrest rates.<sup>31</sup> For example, in 2016, Black people in Louisiana were about 3 times as likely as white people to be arrested for marijuana possession, despite evidence that Black people and white people use marijuana at similar rates.<sup>32</sup> Disproportionate arrest rates mean that judges are more likely to perceive Black Louisianans as “high-risk” and impose

high bail amounts that result in pretrial incarceration. Because pretrial incarceration is linked to increased rates of conviction, this fuels a cycle of criminalization, incarceration, and racist stereotypes.<sup>33</sup>

What it means to be Black in Louisiana’s pretrial system is not lost on the very people who have been abandoned. When asked to describe Louisiana’s pretrial system in one word, Al, a Black man, called it a “lynching.”<sup>34</sup> Roy called it “racist.”<sup>35</sup> And Chareese called it “slavery.”<sup>36</sup>

## Women and Pretrial Incarceration in Louisiana

Thousands of women are incarcerated pretrial in Louisiana. Even though fewer

### MEDIAN TIME SPENT INCARCERATED PRETRIAL

BLACK LOUISIANANS:  
**3.5 MONTHS**

WHITE LOUISIANANS:  
**2.5 MONTHS**

*See also* Prison Policy Initiative, Summary of Research Studies Related to Racial Disparities in Pretrial Detention, [https://www.prisonpolicy.org/racial\\_disparities\\_in\\_pretrial\\_detention\\_appendix.pdf](https://www.prisonpolicy.org/racial_disparities_in_pretrial_detention_appendix.pdf) (last visited Feb. 9, 2020).

27 Econ. Pol’y Initiative, Black Unemployment is at least Twice as High as White Unemployment at the National Level and in 14 States and the District of Columbia, <https://www.epi.org/publication/valerie-figures-state-unemployment-by-race/> (last visited Feb. 9, 2020).

28 Susan Buchanan, Unemployment remains stubbornly high for Black men in New Orleans, La. Weekly (May 14, 2018), <http://www.louisianaweekly.com/unemployment-remains-stubbornly-high-for-black-men-in-new-orleans/>.

29 According to the U.S. Census, Black people in Louisiana are more than twice as likely to live in poverty compared to white people in this state. This is yet another factor that prevents pretrial release.

30 La. Code of Crim. Proc. art. 316(3).

31 *See also* Megan Stevenson & Sandra Gabriel Mason, The Scale of Misdemeanor Justice 98 B.U. L. Rev. 731, 759 (2018).

32 Southern Poverty Law Center, Racial Profiling in Louisiana: Unconstitutional and Counterproductive 5 (2018), [https://www.splcenter.org/sites/default/files/leg\\_special\\_report\\_racial\\_final.pdf](https://www.splcenter.org/sites/default/files/leg_special_report_racial_final.pdf)

33 Emily Leslie & Nolan G. Pope, The Unintended Impact of Pretrial Detention on Case Outcomes: Evidence from New York City Arraignments 60 J. L. and Econ. 529, 530 (2018).

34 Interview with Al (Jan. 23, 2020).

35 Interview with Roy (Jan. 23, 2020).

36 Interview with Chareese (Jan. 31, 2020).

women than men are jailed pretrial, the experience of women in the pretrial system has tremendous consequences. Nationwide, women’s incarceration has grown at twice the

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**“Your children are going to suffer.  
They hurt the most.”**

HELEN, MOTHER OF FIVE

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pace of men’s, owing largely to growth in the number of women held in local jails.<sup>37</sup>

Nationwide, 80 percent of women in jails are mothers.<sup>38</sup> Most of them are primary caretakers of their children. Every woman locked in jail pretrial represents a family and a community that is also bearing the pains of her incarceration.

Women who are mothers, and their children, face agonizing challenges. As Helen, a mother of five children, put it, “Your children are gonna suffer. They hurt the most.” According to the Prison Policy Initiative, jail phone calls are three times as expensive as calls from prison, making it harder for mothers to keep in touch with their families and children. Visitation is difficult as well. Most visits to Louisiana jails must be scheduled in advance, and most jails only allow visitation on certain days and for a certain time period. Visits are usually no-contact, which means that children cannot touch their mothers, and mothers cannot hold their children. Because the system does not prioritize the unique needs of women who are incarcerated, several parishes do not house women at all, instead opting to send them to distant, isolated jails. As a result, many women who are incarcerated are unable to see their

children. In addition to the pain this causes families, research indicates that for both women and men, contact with family members during incarceration reduces the risk of recidivism by strengthening community ties.<sup>39</sup>

Because of income inequality between men and women, unaffordable money bail also has a disproportionate effect on women. Louisiana men earned about \$50,000 in 2017 while women only earned \$34,000.<sup>40</sup> We found that the median bail in Louisiana is \$24,000. It is no surprise that many Louisiana women are unable to buy their freedom.

Even when men are jailed pretrial, it is “often women who absorb the financial costs, including bail, attorney fees, and court fines and fees, when family members are incarcerated, which, in many cases, deepens their financial insecurity.”<sup>41</sup> Notably, each man we interviewed for this report told us that his mother raised his bail money by using a portion of her earnings and fundraising.

Because of the rise in the number of incarcerated women and the resulting damage to their families and communities, we must commit ourselves to further research and action.

## **Chemical Dependency and Pretrial Incarceration in Louisiana**

Louisiana’s pretrial system is commonly, and irrationally, used as a response to people with chemical dependency.

Our analysis showed the most common charge for people incarcerated pretrial was drug possession, a low-level offense.<sup>42</sup>

People with chemical dependency are widely

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37 Women’s Incarceration: The Whole Pie 2019, <https://www.prisonpolicy.org/reports/pie2019women.html> (last visited Feb. 9, 2020).

38 *Id.*

39 Ryan Shanahan & Sandra Villalobos Agudelo, *The Family and Recidivism*, American Jails, Sept./Oct. 2012, at 17.

40 U.S. Census Bureau, QuickFacts: Louisiana (2019).

41 Léon Digard & Elizabeth Swavola, Vera Institute of Justice, *Justice Denied: The Harmful and Lasting Effects of Pretrial Detention 7* (2015), <https://www.vera.org/downloads/publications/Justice-Denied-Evidence-Brief.pdf>.

42 The ACLU of La., *supra*, note 19.

punished for their addiction, which has long been considered a “complex disease.”<sup>43</sup> On average, people with this disease have their first interaction with the criminal legal system earlier than the general population and have more contact with the criminal legal system overall.<sup>44</sup> This means that we are spending immense public resources on a carceral response to what is essentially a public health concern.

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## The most common charge for people incarcerated pretrial was drug possession, a low-level offense.

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Louisiana law allows judges to consider “the absence or presence in the defendant of any controlled dangerous substance” when setting a person’s bail, which puts people with chemical dependency at higher risk for bail denial and incarceration.<sup>45</sup> Several people interviewed for this report were incarcerated



pretrial while facing chemical dependency. None received treatment while incarcerated.

As one of the community members we spoke with said, “You can’t treat addiction with [jail].”<sup>46</sup> Our pretrial system of jailing people

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## “You can’t treat addiction with [jail.]”

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accused of low-level offenses and setting bail based on their drug use results in a counter-productive cycle in which our state jails a population that would be better served with therapeutic interventions.

## Louisiana’s Pretrial System Extracts Time and Wealth from the Poor

Under the Constitution, “imprisonment solely because of indigent status is invidious discrimination and not constitutionally permissible.” However, Louisiana’s pretrial system consistently contradicts this legal mandate, punishing people for their poverty.

All the people interviewed for this report said that judges had not asked about or considered their ability to pay their bail when setting the amount. That places freedom out of reach for people who do not have the money to pay bail. The jail records in our sample include people incarcerated pretrial with bail amounts of just \$200. In a state where 1 in 5 people live below the poverty line, being jailed for being poor is an especially cruel punishment.<sup>47</sup>

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43 Center on Addiction, *Addiction as a Disease*, [https://www.samhsa.gov/sites/default/files/programs\\_campaigns/02.\\_webcast\\_2\\_resources.pdf](https://www.samhsa.gov/sites/default/files/programs_campaigns/02._webcast_2_resources.pdf) (last visited Feb. 9, 2020).

44 The National Center on Addiction and Substance Abuse at Columbia University, *Behind Bars II: Substance Abuse and America’s Prison Population 3* (2010).

45 La. Code of Crim. Proc. art. 316.

46 Interview conducted on January 23, 2020.

47 Melinda Deslatte, *Data releases show disappointing La. Story*, *Shreveport Times* (Oct. 1, 2018), <https://www.shreveporttimes.com/story/news/local/louisiana/2018/10/01/data-releases-show-disappointing-la-story/38005057/>.

# The Human Cost of Louisiana's Pretrial System

Research has shown that even three days behind bars can upend a person's life.<sup>48</sup> A person can lose their housing, their job, and even lose child custody while behind bars.<sup>49</sup> But the only way to truly understand Louisiana's pretrial system is to experience it, to be held in a jail cell even when you are legally innocent and only accused of a crime.

In the sections that follow, the people interviewed for this report describe their experiences in Louisiana's pretrial system.

## **First Confusion Turns into Pressure, Then Pressure Turns Into Hopelessness:**

Because Louisiana's pretrial laws are unclear, pretrial processes vary based on the jurisdiction. Variation in already-complex

laws produces confusion. This confusion can be traumatic for people who are incarcerated pretrial and their families. A common thread among the people who shared their experiences with us was a feeling of overwhelming confusion, which led to a loss of hope and giving into the intense pressures of the system. Roy told us he felt confused at his hearings, explaining that the judge didn't ask him any questions, and he had no idea what was going on. Al and Roland both experienced the same feeling. The confusion was especially profound for Roland, who was incarcerated when he was 15. "I had to learn each step to take by going to jail," said Roland. Roland now wants to start a non-profit to help other system-involved youth avoid the confusion he faced.

The confusion that permeates Louisiana's pretrial system puts added pressure

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48 Christopher Lowenkamp et al., Laura and John Arnold Found., *The Hidden Costs of Pretrial Detention 3* (2013).

49 Dobbie, *supra*, note 2.

on innocent people to plead guilty. The consequences of time in jail are so dire that people jailed pretrial are more likely to plead guilty, even if they are actually innocent, just so they can be released. Many are haunted by a criminal record as a result. This is exactly what happened to Roy. Roy was accused of a crime that he did not commit. While Roy wanted to prove his innocence, he knew that jail time would cause his life to pass by without him, especially since his mother was in chemotherapy at the time. He worried that “his life would keep going if he was locked up.” So, he pled guilty just so he could be released.

While the pretrial process is muddled, one thing was clear to our community members: Their bail was impossible to pay. As soon as they heard their excessive bail, they prepared themselves to accept the inevitable: Jail. As Al mentioned, “[I knew I needed to] mentally prepare myself [for jail].” Keith shared his thought process: “I might as well make myself comfortable; I know that [my family] doesn’t have the money. And that’s frustrating.”

### “Your Family Does Time, Too.”

Communities are stronger when families stay together.<sup>50</sup>

But, as Helen describes it, Louisiana’s pretrial system “[takes] a mother away from their child and [puts] them in a dump.”

Parents who are incarcerated pretrial face especially difficult challenges. Keith told us that after he heard his unaffordable bail, and was mentally preparing himself for jail, all he could think about was his daughter “and all the other things [he’ll] miss.” His daughter was a teenager at the time, and, as Keith explained, “she [needed] her daddy.” And, because visitation in Louisiana jails is notoriously difficult, he feels that, “My daughter [was] in jail too because she [wasn’t] able to see me.”



Photo by: Edmund Fountain

He also thought about the stigma of having an incarcerated parent, implying that he was ashamed that she would have to tell people that her father was in jail.

Tragically, people incarcerated pretrial risk losing their family members while in jail. Roy was incarcerated pretrial for 21 days. At the start of his jail time, his mother, whose health was deteriorating, was still able to form sentences. When he was released, her health had declined so much that she could barely remember her own son.

Roland explained how he lost several of his family members while incarcerated.

Keith’s mother, who gathered bail money for his release, passed away while he was incarcerated, and jail officials refused to allow him to attend her funeral, which “tore [him] up.”

Remy was charged with non-violent offenses and was held in jail while pregnant with twins. After an altercation, she was moved to lockdown for 21 days. While there, she told jail staff that she wasn’t feeling well, but they ignored her, thinking that she was “faking.” Tragically, Remy miscarried her twins while in lockdown.

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50 Anne E. Casey Found., *Children of Incarcerated Parents*, a Shared Sentence 4 (2016).

## Broken Bonds

The separation of families inevitably leads to broken relationships. Michael explained how his pretrial incarceration caused his parents to lose respect for him.

The fact that friends and family members, especially women, often bear the burden of paying their loved one's bail makes the collapse of those relationships especially painful.

The median bail in Louisiana is \$24,000,<sup>51</sup> an amount that is especially expensive for people in a state with the third-highest poverty rate in the nation.<sup>52</sup> Without disposable income available, poor families who pay their loved ones' bail will soon start asking for their money back. Helen and Keith both experienced this and said there is now "bad blood" between them and their family members, including phone calls that escalated to yelling.

Aside from the stress of family and friends demanding repayment, pretrial incarceration also causes feelings of shame. Keith's cousin sold his work truck and equipment to raise the funds to pay his bail. So, not only was Keith out of work while incarcerated, but his cousin's job was affected too. Keith shared how he felt "guilty" because he knew that while his cousin's sacrifice secured his freedom, he was also jeopardizing his cousin's job and income. Some broken relationships can heal, but some are irreparable. As Helen explains, "I lost good friends behind those high ass bonds."

It should not be lost on us that this damage takes place all while a person is still legally innocent. As Rev. Alexis Anderson explained, "You haven't even had a trial yet, and your family has left you."

Unfortunately, there's no easy solution. People who are incarcerated pretrial face a

double-edged sword: "If you don't pay them back, you got enemies. If you do pay them back, you got nothing."

## The Cycle of Poverty and Homelessness

Nationally, the average person incarcerated pretrial earns less than \$7,000 in the year prior to arrest.<sup>53</sup> Helen shared that her bail was set at \$3,000 even though she earns less than \$700 a month.

Pretrial incarceration traps people in a cycle of poverty. People often lose their jobs when incarcerated. Roland explained that he was in the process of securing a job when he was arrested, so he lost that opportunity.

As Al and Keith explained, "When you get out, you have to hurry up and find a job." However, this is easier said than done. People with open cases or criminal records face a variety of prejudices – from barriers to employment, housing, etc. These barriers translate to fewer opportunities.

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**"Liberty is the norm, and detention prior to trial or without trial is the carefully limited exception."**

FORMER CHIEF JUSTICE WILLIAM REHNQUIST.  
*U.S. V. SALERNO, 481 U.S. 739, 751-52 (1987).*

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If people who were incarcerated pretrial succeed in finding new employment, they often do not make as much money.<sup>54</sup>

Remy thinks that "the system picks on people who don't have money." She is not wrong.

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51 The ACLU of La., *supra*, note 19.

52 Associated Press, *supra*, note 3.

53 Patrick Liu et al., The Hamilton Project, The Economics of Bail and Pretrial Detention 9 (2018).

54 Pew Charitable Trs., Collateral Costs: Incarceration's Effect on Economic Mobility 11 (2010).

In Louisiana, there are fees associated with every stage of the criminal legal process. There are bail and supervision fees attached to pretrial conditions if the person is fortunate enough to be released pretrial. These fees “punish people 3 to 5 times for the same charge.”<sup>55</sup> The costs also quickly add up for people in our state’s pretrial system, who face significant challenges when finding employment.

This lack of employment feeds into poverty and homelessness.

Michael resorted to panhandling because it was that difficult for him to get a job after his release. As he explained, “Yes, it’s against the law, but once you’ve been in that situation [incarcerated pretrial], it’s harder to get a job. People are less likely to take a chance on you when they learn that you’re homeless.”<sup>56</sup>

One community member shared how he is currently experiencing homelessness.

Some community members lost their homes immediately. Keith shared that, “You lose everything once you get in the police car.” For that reason, he didn’t even think about returning to it [his home and job]” because he knew it wouldn’t be there when he was released. Helen experienced a similar fate. She explained that she lost her house, her furniture, and “everything I ever had.”

The pretrial experience creates complications that reach far beyond a person’s time in jail. As Roy explained, “When they figure out that I didn’t do it, all I get is ‘have a nice day?!’”

Of course, ‘have a nice day’ doesn’t even begin to replenish what people lose while

incarcerated pretrial and the troubles they encounter when rejoining their communities.

Aside from damaged relationships, unemployment, and homelessness, people who are incarcerated pretrial expressed how their period of incarceration affected their health and how they are still recovering.<sup>57</sup>

People with mental and physical health needs are unable to access needed medical treatment while incarcerated. Every person we spoke with who disclosed their mental



Photo by: Abdul Aziz

55 Interview with Michael, Community Member, in Baton Rouge, La. (Jan. 31, 2020).

56 *Nota bene*: Michael is correct that Louisiana law purports to outlaw panhandling. However, the freedoms of speech and association guaranteed by the First Amendment protect people’s right to seek assistance from others in public spaces. The state law is likely unconstitutionally overbroad. See *Reed v. Town of Gilbert, Ariz.* 135 S. Ct. 2218 (2015); see also *Village of Schaumburg v. Citizens for Better Environment*, 444 U.S. 620 (1980) (“Charitable appeals for funds, on the street or door to door, involve a variety of speech interests that are within the protection of the First Amendment.”) The ACLU of Louisiana has successfully handled challenges to unconstitutional panhandling laws that criminalize poverty.

57 See Armstrong, *supra*, note 8.

health diagnoses said that they did not receive treatment while behind bars. Poor jail conditions can exacerbate these needs.

Michael explained that while he was incarcerated pretrial at East Baton Rouge Parish Prison, there was “dust on the pipes inches thick,” and within a week, he was experiencing cold symptoms.

People in jail are also extremely vulnerable to physical and sexual abuse. Nationwide, jails receive thousands of sexual assault reports annually. According to the U.S. Department of Justice, the number of reports has risen

steadily over the last several years.<sup>58</sup> Rev. Anderson, who watches court proceedings, recalled how she often sees people who are incarcerated pretrial come to court with visible injuries.

Pretrial incarceration also impacts mental health. Remy, who miscarried twins while in lockdown, experienced postpartum depression and had trouble expressing her emotions. Helen also shared how, “It had my nerves bad and I stayed depressed. I could never just breathe. It made me feel useless. It took my pride.”

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58 U.S. Dep’t of Justice, NCJ 251146, *Sexual Victimization Reported by Adult Correctional Authorities, 2012-15* (2018).

# Louisiana's Pretrial System: Unconstitutional and Unconscionable

Louisiana's pretrial system tears apart families and relationships, destroys finances, and breaks people's spirits. The status quo is a system that funnels thousands of vulnerable people into jail, despite their posing no danger



Photo by: Doran

to the community. And our research shows that the state's pretrial incarceration rate has grown significantly in recent years. So, how did we get here?

The immense financial and human costs of Louisiana's pretrial incarceration epidemic are driven by law, policy, and practice that routinely violate people's fundamental rights.

In Louisiana, freedom seems only to exist for those with the ability to pay bail. Although it is now widely accepted that people cannot be incarcerated simply because they do not have a certain amount of money,<sup>59</sup> in Louisiana thousands of people are locked up awaiting trial on bail amounts they cannot afford.

Louisiana law specifies ten factors that should be considered by a court when setting bail, including the person's ability to pay.<sup>60</sup> The Constitution also requires that bail be set in

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59 *Bearden v. Georgia*, 461 U.S. 660, 668–69 (1983).

60 La. Code of Crim. Proc. art. 316.

an amount that a person can afford, unless a person is a flight risk or clearly a danger to the community and it is proven by clear and convincing evidence that no condition of release can mitigate the risk or danger.<sup>61</sup> But bail hearings in Louisiana are often cursory, and judges do not meaningfully consider

The ACLU of Louisiana, with SPLC, sued to challenge pretrial procedures in Baton Rouge that kept people in jail because of poverty. There, people were jailed unless they paid a \$525 fee to a private corporation. We won the case in February 2020.

proper bail amounts. Louisiana law also allows courts to impose money bail using a bail schedule, which sets bail at a certain amount with no regard to how dangerous a person is, or to whether a person is able to pay.<sup>62</sup> The use of one-size-fits-all bail schedules directly conflicts with constitutional requirements to limit the use of money bail and to ensure that bail is affordable for each person.<sup>63</sup>

Our research revealed that these illegal practices permeate Louisiana’s court system, driving poor people into jail at an unprecedented rate. The interviews conducted for this report corroborate a 2018 report by the Louisiana State Bar Association’s Criminal Justice Committee, which found that most Louisiana courts use bail schedules.<sup>64</sup> Each

community member we spoke with said that their judge never asked about their ability to pay.<sup>65</sup> In the state with the second-highest poverty rate in the nation, the price of freedom is simply out of reach for most people in jail. Excessive bail is the unconscionable norm in Louisiana.

Once in jail, people languish for months, or even years, before their day in court. In our data snapshot, the average person had been detained pretrial for 5 ½ months. Many of these people had not been formally charged with a crime. None had been convicted. They remained in jail during this time because they could not afford their freedom.

The right to a speedy trial is guaranteed by the U.S. Constitution and state law.<sup>66</sup> But if a person is jailed following arrest, Louisiana law gives prosecutors 45 days to decide whether to file misdemeanor charges and 60 days for most felonies.<sup>67</sup> If a person is not charged with

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“Of the community members we spoke with, none had been asked by a judge about their ability to pay.”

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a crime within this “charging window,” that person must file a motion in court seeking release. But this is impossible for most people to accomplish, because they do not have a lawyer to help them with this process. The vast majority of people incarcerated in Louisiana are indigent and cannot afford private lawyers.

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61 *Caliste v. Cantrell*, 329 F. Supp. 3d 296, 305 (E.D. La. 2018), *aff’d*, 937 F.3d 525 (5th Cir. 2019).

62 La. Code of Crim. Proc. art. 315.

63 The American Bar Association’s Pretrial Release Standards warns judges to “exercise care not to give inordinate weight to the nature of the present charge.” The Am. Bar Ass’n Standards for Crim. Just., Pretrial Release 4 (2017).

64 La. State Bar Ass’n Crim. Just. Comm., Report on the Louisiana Bail System 14 (2018).

65 Based on interviews with community members, all of whom have been incarcerated pretrial in Louisiana jails.

66 “[I]n all criminal prosecutions, the accused shall enjoy the right to a speedy trial.” U.S. Amend. VI. *See also* La. Code Crim. Proc. art. 701.

67 If the person accused of a crime hasn’t been in jail after their arrest, prosecutors have between 90-150 days to bring formal charges. La. Code of Crim. Proc. art. 701.

They must rely upon attorneys appointed by the court.<sup>68</sup> There is a constitutional right to appointed counsel at the initial bail hearing,<sup>69</sup> but if a person is not charged with a crime, as allowed by Louisiana’s long charging window, there may be no lawyer appointed to assist a person after that bail hearing. The Constitution requires that people charged with crimes be appointed counsel at the “onset of adversarial hearings,”<sup>70</sup> which has been interpreted to mean after charges have been filed, at arraignment.<sup>71</sup> As a result, there may be no court-appointed lawyer to file a release motion if a person is not charged within the charging window. And even when defense counsel files a motion to enforce these time limits, the district attorney has the right to show “good cause” for the delay and advocate for continued incarceration.

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Unless the right to pretrial release is preserved, **“the presumption of innocence, secured only after centuries of struggle, would lose its meaning.”**

*STACK V. BOYLE*, 342 U.S. 1, 4 (1951).<sup>73</sup>

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The tragic result is that in Louisiana, people can languish behind bars for months with no advocate to secure their release. This is not because they have been convicted of or even charged with a crime, or because they have been judged a danger to the community. It is simply because they are poor.<sup>72</sup>

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68 La. Pub. Def. Bd.: What We Do, <http://lpdb.la.gov/About/What%20We%20Do.php> (last visited Feb. 10, 2020).

69 *Rothgery v. Gillespie Cty., Tex.*, 554 U.S. 191, 198 (2008).

70 *Kirby v. Illinois*, 406 U.S. 682, 688 (1972).

71 *Powell v. Alabama*, 287 U.S. 45, 57 (1932).

72 Daniel Bethencourt, *Defendants Held Excessive Time Before Charging*, The Baton Rouge Advocate (Jan. 26, 2015), [https://www.theadvocate.com/baton\\_rouge/news/crime\\_police/article\\_209f9030-41bd-570b-b32e-e7fd7ab87252.html](https://www.theadvocate.com/baton_rouge/news/crime_police/article_209f9030-41bd-570b-b32e-e7fd7ab87252.html).

73 “Liberty is the norm, and detention prior to trial or without trial is the carefully limited exception.” *U.S. v. Salerno*, 481 U.S. 739, 751-52 (1987).

# Policy Recommendations

Achieving an equitable, constitutional, and cost-effective pretrial system means implementing a comprehensive set of reforms. Based on constitutional standards, our analysis of Louisiana jail data and the firsthand experiences of people who have been incarcerated pretrial, we have identified recommendations for reform. To assist

state-level policymakers, local officials, and members of the community in identifying areas to focus their attention, we have divided our recommendations into two sets: those requiring statutory change and those available to local governments even without statewide legislation.



Photo by: Lorie Shaull

# STATE LEGISLATIVE RECOMMENDATIONS

## Transparency and accountability

1. To understand and evaluate the pretrial system, we must have standardized, reliable data describing who is in jail, why, and at what cost to taxpayers. Parishes should be required to maintain a minimum set of data on their pretrial population from the time of arrest through release from jail. The data should be maintained in a standard format so that it is comparable across jurisdictions and possible to analyze statewide trends.

## Reduce arrests

2. Enact a statutory presumption to issue a summons in lieu of arrest for most misdemeanors, with explicit standards for departing from the presumption. One of the most effective ways to reduce the harms of our pretrial system is to reduce the number of people funneled into it in the first place. At a minimum, presumptions against arrest should cover offenses correlated with homelessness and poverty, and minor vehicle-related offenses, such as:
  - Solicitation on an interstate highway
  - Pedestrian soliciting rides or business
  - Obstructing public passages
  - Disturbing the peace
  - Operating vehicle while license is suspended
  - Surrender of license and registration
  - Removal of license plate
  - Safety belt use

## Bail reform

3. Repeal Article 315 of the Louisiana Code of Criminal Procedure, which authorizes

the use of bail schedules. The use of bail schedules in Louisiana violates the Constitution's guarantees of due process and equal protection under the law.

4. Amend the Louisiana Code of Criminal Procedure Article 316 to reflect the constitutional standard for setting bail. Specifically, Louisiana must require that every person arrested receives an individualized release hearing within 24 hours of arrest, during which the person has representation by counsel and a right to discovery. The Legislature should adopt a statutory presumption in favor of an arrested person's release on personal recognizance, rebuttable only by the state's showing of clear and convincing evidence that a person poses a significant risk of nonappearance or causing bodily harm to a reasonably identifiable person. The law should strictly limit the conditions of bail permissible for any person to the least restrictive conditions required to ensure appearance in court. The imposition of money bail should be narrowly limited to those cases in which the court finds that no other non-monetary condition can address the person's risk of flight or harm to a person. People who have been arrested are constitutionally entitled to robust procedural protections before being locked in jail or required to pay money bail.
5. Amend Article 321 of the Louisiana Code of Criminal Procedure to eliminate blanket prohibitions on judges releasing certain persons on personal recognizance or unsecured bail to comport with the constitutionally-required individualized determination described in Recommendation 4.

### **Reduce time to charge and arraignment**

6. Article 701 of the Louisiana Code of Criminal Procedure should be amended to require that the state file charges against a person who is held in jail no later than 30 days for the most serious charges and five days for all other offenses. Arraignments should occur within 72 hours after charges are instituted. If the state fails to charge a person within the statutory timeline, the law should require the person's release from custody. If not arraigned within the timeline, the person's bail obligation should be relieved. Currently, the law permits unnecessarily long delays between a person's arrest, the filing of formal charges, and arraignment. For those in custody, the state currently has 45 days to file charges for misdemeanors, 60 days for felonies, and 120 days for offenses punishable by death or life imprisonment. The law provides an

additional 30 days to set a matter for arraignment. As a result, many people spend weeks or months in jail without having been charged with any crime, costing parishes millions of dollars each year.

### **Racial justice**

7. Louisiana's pretrial system has a significant racial disparity, with Black people 2.6 times more likely to be incarcerated pretrial. To help eliminate this racial disparity, the Legislature should require a racial impact statement for any legislation related to the criminal legal system. Racial impact statements assist lawmakers in evaluating potential disparities of proposed legislation prior to adoption and implementation. It is important to address a policy's unforeseen effects before it is adopted, as it is more difficult to reverse policies once they have been implemented.

## **RECOMMENDATIONS FOR LOCAL GOVERNMENTS**

Local officials have the authority to enact significant pretrial reform in their jurisdictions without waiting for an act of the Legislature.

### **Reduce arrests**

8. Local officials have the authority to reduce punitive responses to crimes that pose no danger to public safety in their jurisdictions. Chiefs of police, district attorneys, judges, and city council members should explore ways to limit arrests and jailing for non-violent offenses correlated with poverty, homelessness, and chemical dependency, such as presumptive citations in lieu of arrest.

9. Most jurisdictions have many outstanding fines and warrants that they know will never be satisfied, because the individual they are imposed against does not have the ability to comply. Those

jurisdictions could hold an amnesty event, purging old warrants from the system and removing warrants based upon a failure to pay fines and fees. This would prevent unnecessary detention in the future, while avoiding expending time or resources attempting to collect debts that simply will never be satisfied. Creating such a "fresh start" would allow the local judiciary to rethink the way they utilize warrants. It also would allow local electorates to seek to elect judges who represent their values.

### **Reduce time to charge and arraignment**

10. Even without an amendment to Article 701 of the Louisiana Code of Criminal Procedure, district attorneys and judges

should adopt local policies reducing the state's time periods for charging and arraigning a person following arrest. This reform would reduce the length of jail stays by weeks for people whose cases are ultimately refused, resulting in significant cost-savings to parishes. It also would result in earlier meaningful appointment of public defenders to cases, who can assist the judiciary in identifying cases for pretrial release or acquittals.

### **Bail reform**

11. Judges and district attorneys have the authority to implement the bail reforms described above, even under current statute. Local jurisdictions should act immediately to eliminate reliance upon bail schedules, the factors considered in release determinations and fixing bail, and the failure to inquire into a person's ability to pay monetary bail.
12. Local jurisdictions should eliminate all blanket categories of mandatory detention, including for violations of bond conditions. Instead, each determination regarding pretrial detention should turn on an individualized determination of a person's risk of nonappearance or risk of harm to a person. Courts should adopt rules requiring a written record of the justification for any person's incarceration pretrial.
13. To aid in making individualized assessments of a person's risk of nonappearance, some jurisdictions have begun using "risk assessment tools," which aim to estimate the likelihood that a person will appear in court with no new arrest if released from custody. Because the data that informs risk assessment tools' estimates draws significantly from a person's criminal record and previous failures to appear, rather than a person's present circumstances, risk assessment tools are not sufficient to replace judicial decision making regarding release decisions, and have been shown in some jurisdictions to have entrenched racial disparities in the pretrial system. In addition, the predictive values of these estimates vary from tool to tool, making accurate interpretation of any tool's estimate a highly specialized endeavor. Any jurisdiction considering the implementation of a risk assessment tool must carefully study the tool's predictive value; ensure that any judge considering an estimate is thoroughly trained on its interpretation and the limits of its predictive value; calibrate the tool using current, local data, instead of data from other jurisdictions; require that risk estimates are never used as a replacement for robust and individualized examination of the evidence by a judge; and establish protocols for regularly monitoring pretrial statistics to identify trends, disparities, or necessary changes to the tool or its implementation.
14. Under no circumstances should a person be jailed pretrial for a longer time than the maximum sentence allowable for the underlying arrest or charge. Sheriffs, court clerks, and prosecutors should establish adequate and reliable information sharing to ensure this excessive incarceration never happens.
15. District attorneys should adopt policies requiring that prosecutors turn over all files related to the charges as soon as a charging decision is made, or when the right to counsel attaches. People have a right to counsel at an initial bail hearing. Public defenders should be appointed at that hearing and represent an individual moving forward in the proceeding.

## **Reduce barriers to compliance with supervision and release conditions**

16. Local jurisdictions can implement various supportive measures related to court scheduling that are proven to reduce failures to appear. Courts should adopt scheduling systems that enable people who are released pretrial to receive court date reminders and easily reschedule their court dates to accommodate work schedules, childcare, and other important responsibilities.
17. District attorneys should adopt or expand the use of pretrial diversion programs. All fees for participating in diversion programs should be waived, and the length and conditions required to complete them should be moderated to ensure they are not onerous and are individually tailored to people's circumstances.
18. Local jurisdictions should strictly limit the use of pretrial supervision to those cases when there is evidence that it is necessary. Under no circumstances should a person bear the cost of their own supervision. Jurisdictions should eliminate all fees for drug testing, court evaluations, and pretrial diversion programs, which not only impose great financial hardship on struggling families, but can also result in incarceration for failure to pay.
19. Courts can eliminate requirements that a person be physically present for certain court proceedings that are not critical. Courts should permit people to appear remotely or via counsel for some proceedings, to eliminate strain on work schedules and prevent warrants for missed court appearances at which a physical appearance is not truly necessary.

20. Local jurisdictions should avoid repeatedly jailing people who have a pattern of failing to appear for court. Courts should assign staff to communicate with people about the causes of their failures to appear and consider diversion to other supportive services whenever appropriate.
21. Sheriffs should negotiate their contracts with phone service providers making every effort to make it affordable for people to maintain contact with their families and support networks. Charging high prices for phone calls from jail punishes people who are legally innocent, drives up costs for their appointed counsel, and makes it harder for them to contact family.

## **Transparency and accountability**

22. Even without a statewide mandate to maintain standardized jail data, sheriffs should ensure that key data is accurate and readily available. The data should describe, at minimum, who is incarcerated pretrial, under what circumstances, for how long, and at what cost.
23. Prosecutors' decisions regarding whether to file or dismiss charges, what charges to file, and recommendations for a person's pretrial detention or release have a significant impact on pretrial incarceration that is largely invisible to policymakers and the public. To ensure public integrity and to enable evaluation of the pretrial system, district attorneys should adopt policies requiring documentation of prosecutors' decisions throughout the pretrial process and the operation of pretrial diversion programs.

# Methodology

## Quantitative Methodology

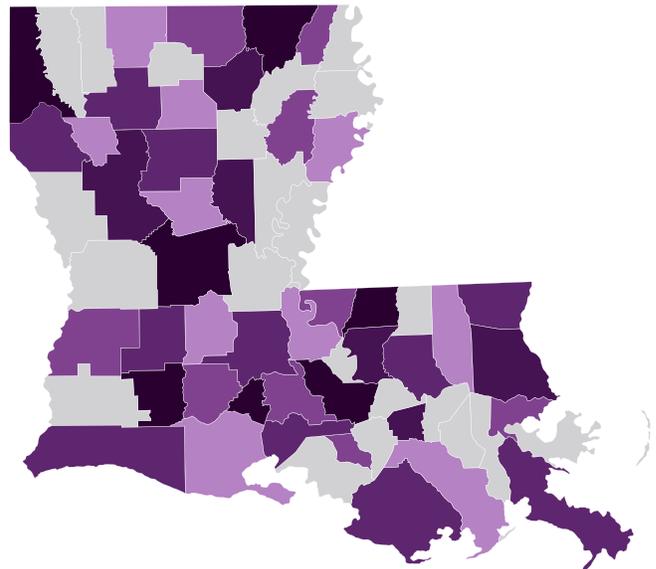
On August 19, 2019, the ACLU of Louisiana sent public records requests to every sheriff in Louisiana, seeking the following information for each person incarcerated pretrial on that date: race, sex, age, booking date, charge, and bail amount. We also requested financial information to determine how much parishes were spending on pretrial incarceration, along with information about their jail management systems.

From August to December 2019, we received full responses from 42 of Louisiana's 64 parishes: Acadia, Allen, Beauregard, Bienville, Caddo, Cameron, Claiborne, DeSoto, East Baton Rouge, East Feliciana, Evangeline, Franklin, Grant, Iberia, Iberville, Jackson, Jefferson Davis, Lafayette, Lafourche, LaSalle, Livingston, Morehouse, Natchitoches, Orleans, Ouachita, Plaquemines, Pointe Coupee, Rapides, Red River, St. James, St. Landry, St. Martin, St. Tammany, Tangipahoa, Tensas, Terrebonne, Union, Vermillion, Washington,

West Carroll, West Feliciana, and Winn. These parishes represent 70 percent of Louisiana's population.

Data from these 42 parishes inform the findings of this report. Our August 12, 2019

## LOUISIANA PARISHES



August 19, 2019

VIA POSTAL MAIL

Re: Public Records Request

Dear Sheriff,

Pursuant to the Public Records Act of Louisiana, R.S. 44:I et seq., we at the ACLU of Louisiana request copies of the public records described below.



PO Box 56157  
New Orleans, LA 70156  
504-522-0617

A'Niya Robinson  
Racial Justice Fellow

1. Documents reflecting or showing the number, identity, race, sex, DOB, booking date, charges and bail amount of every pretrial detainee held or housed in your parish jail or detention facilities on August 12, 2019 or the date closest to that date for which you have responsive documents;
2. Documents reflecting or sufficient to show whether any pretrial detainees in your physical custody are in the legal custody of another jurisdiction/whether you are holding pretrial detainees for another jurisdiction, and, if so, for which jurisdiction they are being held and who those detainees are, with the specificity requested in request 1;
3. Documents reflecting or sufficient to show whether any pretrial detainees in your legal custody are in the physical custody of another jurisdiction/are being housed elsewhere, and, if so, where they are being housed and who they are, with the specificity requested in request 1 above;
4. Documents reflecting or sufficient to show all costs and expenses related to housing pretrial detainees in your facility, including specifically the budget related to running the detention center for pretrial detainees;
5. All documents reflecting or showing all individuals that have been released from your custody since January 1, 2019 without charges having been filed by the District Attorney. For each such individual please provide the specificity requested in request 1; and
6. A document reflecting or indicating what database, electronic management or case management system your office uses to track or log the Parish's incarcerated population.

We are specifically requesting that this information be provided in electronic format, i.e., .csv (Comma-Separated Values), .xls (Microsoft Excel), .txt (Plain Text), or other spreadsheet format or data extract. We would be happy to talk with you or your vendor on how to produce this material electronically from your data management system. We are trying to avoid receipt of paper copies and we would like to work with you to facilitate the production.

For purposes of this request, the term "documents" means any instrument containing information, including but not limited to, any spreadsheets, databases, memoranda,

letters, electronic mail or "e-mail," handwritten, typed, or electronic notes, recordings of any kind and in any form (video, audio, digital, etc.).

Under the provisions of R.S. 44:32, if you question whether a document is a public record you are to notify us in writing, including the legal basis for your opinion, within three days of the receipt of the request, exclusive of Saturdays, Sundays and legal public holidays. If you claim a record is exempt from the Public Records law, you are to state the exemption and your reasons for believing the statute is applicable to the record.

Under the provisions of R.S. 44:33, if a record we requested is not immediately available, you are required to certify this in writing promptly, and in your certificate fix a day and hour within three days, exclusive of Saturdays, Sundays and legal public holidays, for the exercise of the right granted in the Public Records Act.

Under R.S. 44:34, if you do not have possession of a document we requested, you are to notify us of that in writing and let us know where the record is located, to the best of your knowledge.

Please contact us at the number below when the requested materials are ready to be delivered. Again, we request that any and all documents that are available be made available in electronic form.

As you are aware, failure to abide by the Public Records Law may result in certain penalties and the award of attorney's fees. We trust that you will comply without the necessity of any further action on our part. I am available to discuss this request at your convenience and I would like to work with you to resolve any concerns you may have. Thank you!

Sincerely,

A'Niya Robinson  
Racial Justice Fellow  
ACLU of Louisiana Foundation

data compose a "snapshot" of the state's pretrial jail population on that date. As a result, we were unable to analyze long-term trends, such as the flow of people in and out of jail. Trend analysis requires flow data, which is different from the snapshot data we were able to obtain, but the snapshot data confirmed many significant findings.

14 of the 42 parishes submitted Excel spreadsheets. The other 28 parishes submitted scanned PDFs, which data entry specialists manually entered into a database. We aimed to enter the data as it was submitted by the parishes.

Our database, equipped with a data validation tool, included different sets of variables. To keep track of the data's quality and timeliness, we included the following for each submission: Submitting Parish, Date Documents Received, Document Format, Type of Documents Received, Unit of Data, and Pull Date.

We also included the Booking ID, Name, Booking Date, Gender, Race, Birth Date, Offense Information, Bail Information, Housing Location, and Status for each person incarcerated pretrial. To assist in the cleaning process, we included a "No Bail Flag" that

was selected when a person had either no bail listed or a \$0 bail amount. We also created a category for “holds” to note that a person had a probation hold, parole hold, a warrant, or another hold. Because many parishes house other parishes’ pretrial populations, we included two additional variables, Physical Custody and Legal Custody, to note which parish was housing that person and which parish charged that person. Finally, there were two more variables, Corresponding File Name and Notes, to note the name of each individual submission, and any other notes.

After three extensive audits, we consolidated all entries into one master database with one row representing each person incarcerated pretrial. Each person was assigned a unique identifier to protect their privacy.

We also kept track of each parish’s budget and financial documents, documents from the parish indicating that a person was not ultimately prosecuted, and the name of each parish’s jail management system.

## **Cleaning and Analysis**

### **Cleaning:**

Some parishes only submitted records for their parish’s pretrial population while others submitted records for their parish’s entire incarcerated population. To analyze only the parish’s pretrial population, we filtered out records of people who were not incarcerated pretrial. We excluded records for people in the custody of the Louisiana Department of Corrections, people serving federal sentences, people with immigration holds, and other people who were post-conviction.

When there were multiple charges for one booking event, we combined those records into a comma separated text string, adding all the bond amounts and combining the charges into a single field. This allowed for an analysis of the individual booking by the most serious charge instead of counting all charges per booking event.

### **Analysis:**

**Offense Classification:** For analysis, we relied on Louisiana Revised Statute 14:2, which lists Louisiana’s violent crimes. There were some offenses that were not listed in R.S. 14:2 that we, after discussion and analysis of the relevant statute, classified as violent. Those offenses are: domestic abuse, vehicular homicide, battery of a correctional officer, felony carnal knowledge of a juvenile, misdemeanor carnal knowledge of a juvenile, indecent behavior with juveniles, pornography involving juveniles, molestation, hit and run, false imprisonment, and simple battery.

Next, we created categories based on the type of offense. If the offense included any property crimes, the offense was classified as “property crimes.” An offense including drugs was included in the “drug crimes” category. Otherwise, we coded the offense as “other.” To create these broad categories, we looked for key words in the charge description (e.g., theft, burglary, forgery, drug, manufacture, distribute, possession). Finally, to organize each individual by their most serious crime category, we created a hierarchy of violent, property, drug, and other crimes, and counted each individual based on the most serious category in which they had a charge. For example, if a person had charges for both Aggravated Battery and Possession of Methamphetamine, they would be counted in the violent category.

We also created a list of 43 specific crime categories, which included more detailed crimes like murder, drug possession, and theft. We used the same method described above, searching for keywords in the crime description and matching those key words to the more detailed crime categories. We also used a hierarchy similar to the one described above to categorize individuals with multiple charges. Sometimes, it was not clear which charge was the most serious. In those instances, we used the first charge provided by the parish.

**Demographics:** We relied on the United States Census Bureau’s American Fact Finder to pull parish level data by age, sex and race. These data were used with the pretrial data to create pretrial incarceration rates. To compare Louisiana’s parishes to other jurisdictions we used Vera’s Incarceration Trends tool.

**Tools:** We used Microsoft Excel’s Visual Basic for Applications (VBA) for the data cleaning and crime categorization. The data tables and maps were also created using Microsoft Excel.

### **Calculating Cost:**

The 42 parishes reported 10,588 people incarcerated pretrial or an incarceration rate of 502 per 100,000 people between 15 and 64 years old. Using this rate, we estimated the total statewide pretrial population to be 15,189 people.

We also received budget data from these 42 parishes. However, due to limitations in that data, we were only able to estimate jail costs for 16 parishes. Using this data, we created a weighted average of the per-day costs based on each parish’s pretrial population. Fifteen of these parishes had a weighted average daily cost of \$40.76. Orleans Parish was removed from this initial calculation because it was an outlier with an average daily cost of \$188.64. Based on Orleans Parish’s pretrial population and the extrapolation described above, Orleans Parish was estimated to account for 7.8 percent of the state’s pretrial population. To estimate the per-day cost for the rest of the state, we assumed the other 48 parishes would have a similar cost structure to the other 15 parishes, excluding Orleans. Our final cost estimate was calculated by multiplying \$40.76 by 92.2 percent (the 42 parishes excluding

Orleans) and added this amount to \$188.64 multiplied by 7.8 percent (the percentage of the state’s pretrial population from Orleans Parish) for a statewide average daily cost of \$52.29. Statewide, the estimated cost of incarcerating people pretrial is \$794,232.81 per day (15,189 x \$52.29) or \$289,894,975.65 per year.

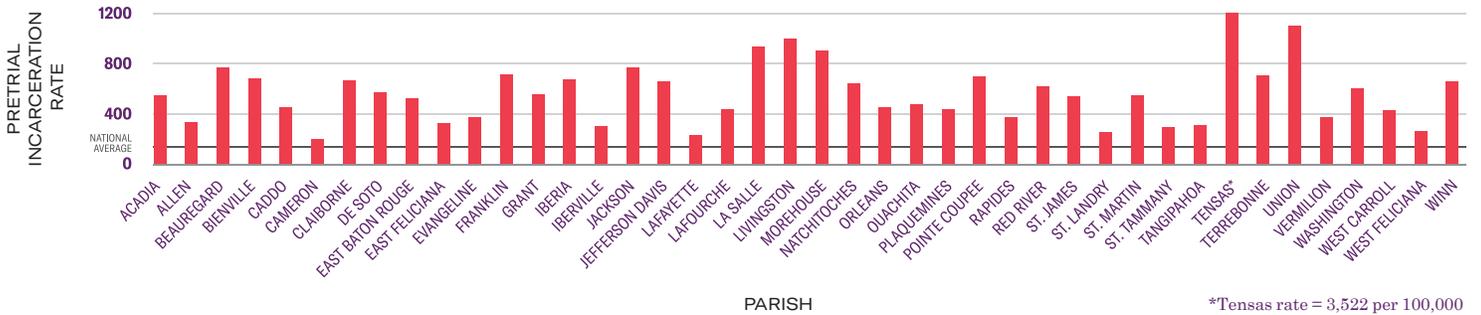
## **Qualitative Methodology**

Between January 23 and 31, 2019, we conducted six interviews and one focus group with people who have firsthand knowledge of Louisiana’s pretrial epidemic. In all, we spoke to eleven people who either were incarcerated pretrial or who provide direct support to those who have been. The purpose of each interview and the focus group was to learn more about the variability within Louisiana’s pretrial process, the impact of being incarcerated during the pretrial process, and any recommendations and opportunities for reform.

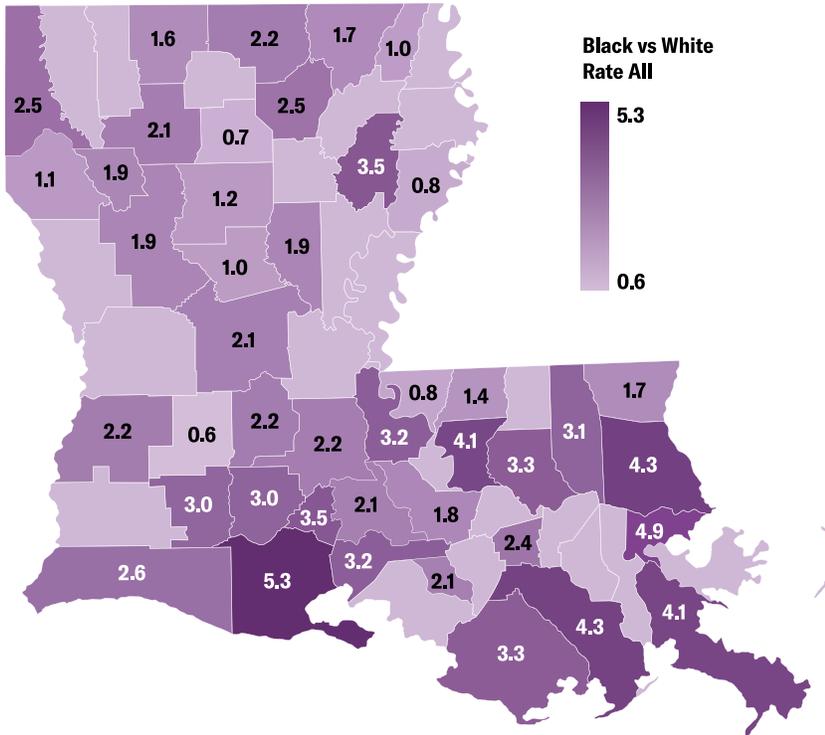
Before each interview and the focus group, each person signed a Media Release Form. In addition to permitting the ACLU of Louisiana to include their story and interview in public education and advocacy materials, the release also explained the purpose of the interview/focus group and our interest in speaking with people who have lived experience. All interviews and the focus group were done in person and were audio-recorded. We also took notes and direct quotes on paper. Ten people that we spoke with gave their permission to have their first name used. One person declined to use their real name. We provided a pseudonym for this person. Each interview and focus group was analyzed using thematic analysis.

# Appendix

## PRETRIAL INCARCERATION RATE BY PARISH VS. NATIONAL AVERAGE



## BLACK VS WHITE LIKELIHOOD OF PRETRIAL INCARCERATION



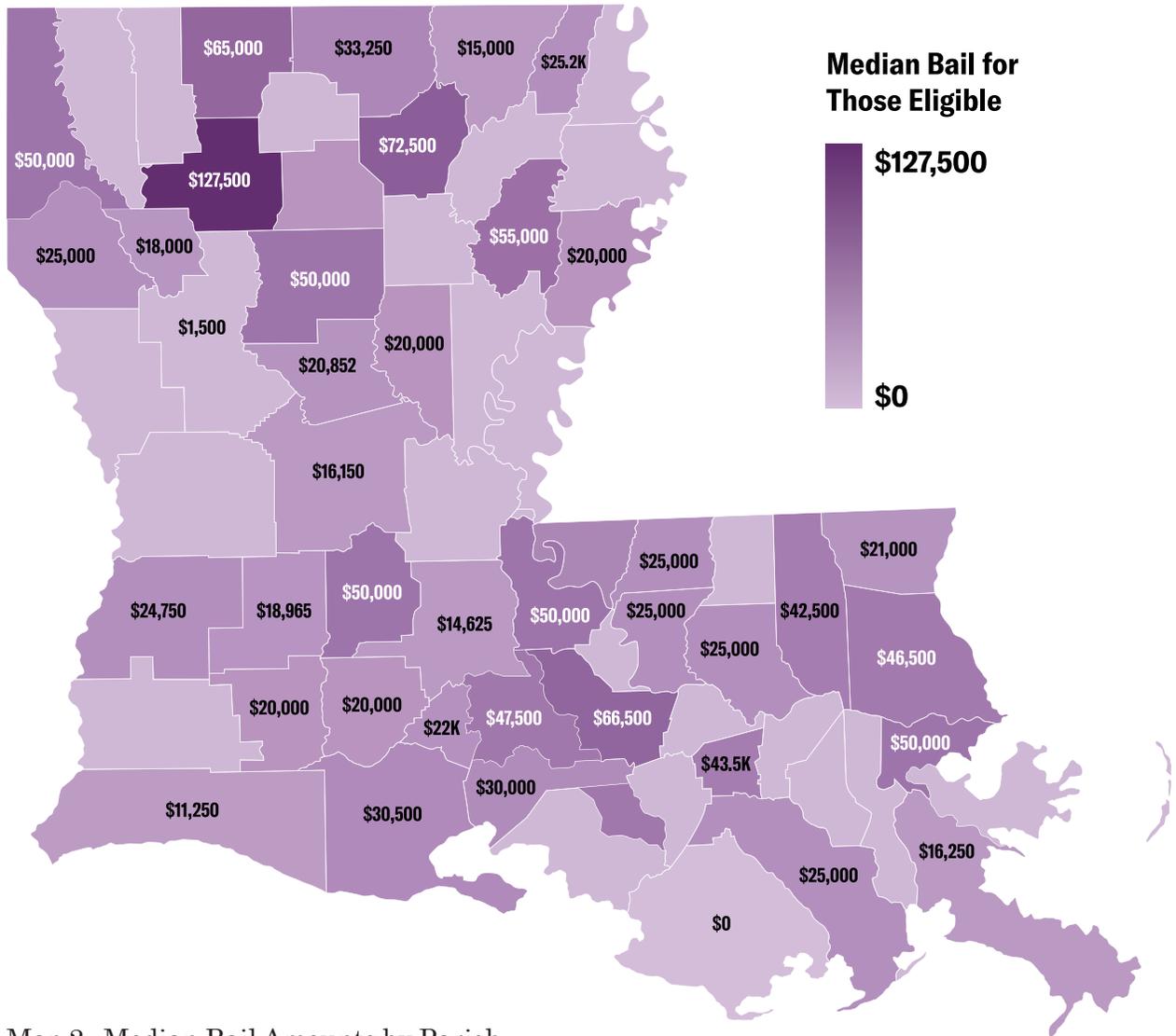
Map 1. Pretrial Incarceration Racial Disparity by Parish

Map 1 and the racial disparity columns in Table 1 below show the likelihood of a Black individual relative to a white individual being incarcerated in the jail pretrial. The highest rate of disparity (and pretrial incarceration) is among Black boys and young men. Black boys and men younger than 25 are nearly 5 times more likely to be incarcerated in the jail following arrest relative to white boys and men of the same age cohort. Overall, Black people are 2.4 times more likely to be incarcerated following arrest than white people.

PARISH	PRETRIAL INCARCERATION RATE PER 100,000 POPULATION		RACIAL DISPARITY		
	BLACK MALE UNDER 25 (PER 15-24)	OVERALL (PER 15-64)	BLACK VS WHITE RATE (MALE 15-24)	BLACK VS WHITE FEMALE	BLACK VS WHITE RATE ALL
ACADIA	2590	552	5.5	0.9	3.0
ALLEN	246	340	0.6	1.1	0.6
BEAUREGARD	2304	774	3.0	1.4	2.2
BIENVILLE	1994	693	1.9	2.4	2.1
CADDO	1683	641	3.5	0.9	2.5
CAMERON	0	197	0.0		2.6
CLAIBORNE	1049	678	1.2		1.6
DE SOTO	620	574	1.4	0.3	1.1
EAST BATON ROUGE	1584	520	12.5	1.3	4.1
EAST FELICIANA	746	324	4.4		1.4
EVANGELINE	1106	381	5.6	1.4	2.2
FRANKLIN	2863	718	10.8	2.0	3.5
GRANT	472	550	0.7	0.9	1.0
IBERIA	3186	680	8.9	0.8	3.2
IBERVILLE	882	305	3.8	1.6	1.8
JACKSON	822	791	0.7	0.7	0.7
JEFFERSON DAVIS	3125	666	9.5	1.3	3.0
LAFAYETTE	1045	235	5.8	0.9	3.5
LAFOURCHE	3721	529	9.7	1.5	4.3
LASALLE	2020	931	2.0	2.5	1.9
LIVINGSTON	5548	992	7.4	0.8	3.3
MOREHOUSE	2634	902	1.9	0.5	1.7
NATCHITOCHE	1053	639	1.8	0.8	1.9
ORLEANS	1379	444	19.4	1.6	4.9
OUACHITA	1590	484	3.4	0.9	2.5
PLAQUEMINES	2235	420	8.2	3.3	4.1
POINTE COUPEE	5082	698	18.9	1.0	3.2
RAPIDES	1075	383	4.9	0.7	2.1
RED RIVER	407	616	0.9	2.7	1.9
ST. JAMES	1545	540	9.1	0.5	2.4
ST. LANDRY	682	252	9.2	0.5	2.2
ST. MARTIN	1820	541	3.1	0.6	2.1
ST. TAMMANY	1200	294	8.3	1.7	4.3
TANGIPAHOA	1142	308	7.8	0.8	3.1
TENSAS	5848	3522	1.1		0.8
TERREBONNE	2954	706	7.4	1.5	3.3
UNION	2685	1064	4.4	0.9	2.2
VERMILION	2560	377	9.2		5.3
WASHINGTON	1460	594	3.3	0.3	1.7
WEST CARROLL	1587	426	3.0		1.0
WEST FELICIANA	1650	289	6.9	1.5	0.8
WINN	619	662	3.2		1.2
<b>GRAND TOTAL</b>	<b>1599</b>	<b>502</b>	<b>4.9</b>	<b>0.8</b>	<b>2.4</b>

Table 1. Incarceration Rates and Racial Disparity by Parish

# MEDIAN BAIL AMOUNT FOR THOSE ELIGIBLE



Map 2. Median Bail Amounts by Parish

PARISH	VIOLENT		NON-VIOLENT		FTA/VIOLATION		ALL	
	N	MEDIAN BAIL	N	MEDIAN BAIL	N	MEDIAN BAIL	N	MEDIAN BAIL
ACADIA	66	\$47,500	95	\$15,000	0		161	\$20,000
ALLEN	23	\$21,000	25	\$12,000	8	\$23,750	48	18,965
BEAUREGARD	10	\$192,500	85	\$20,000	13	\$25,000	95	\$24,750
BIENVILLE	17	\$166,000	17	\$100,000	1	\$10,000	34	\$127,500
CADDO	246	\$100,000	161	\$15,000	0		407	\$50,000
CAMERON	1	\$15,500	7	\$10,000	1	\$1,500	8	\$11,250
CLAIBORNE	18	\$130,000	30	\$47,500	8	\$5,500	48	\$65,000
DE SOTO	7	\$150,000	29	\$17,500	2	\$16,648	36	\$25,000
EAST BATON ROUGE	656	\$75,000	593	\$12,000	12	\$10,000	1249	\$25,000
EAST FELICIANA	18	\$32,500	12	\$15,000	1	\$16,500	30	\$25,000
EVANGELINE	29	\$80,000	25	\$25,000	4	\$39,750	54	\$50,000
FRANKLIN	16	\$200,000	18	\$25,000	3	\$25,206	34	\$55,000
GRANT	29	\$30,000	44	\$14,000	6	\$67,250	73	\$20,852
IBERIA	127	\$66,000	99	\$15,000	42	\$23,500	226	\$30,000
IBERVILLE	37	\$150,000	23	\$24,000	4	\$54,250	60	\$66,500
JACKSON	11	\$200,000	38	\$19,500	0		49	\$20,000
JEFFERSON DAVIS	5	\$30,000	96	\$20,000	0		101	\$20,000
LAFAYETTE	52	\$50,000	41	\$11,000	0		93	\$22,000
LAFOURCHE	81	\$58,520	106	\$16,800	59	\$20,400	187	\$25,000
LASALLE	24	\$20,000	57	\$17,000	9	\$13,500	81	\$20,000
LIVINGSTON	169	\$45,000	403	\$25,000	42	\$30,000	572	\$25,000
MOREHOUSE	41	\$75,000	43	\$9,500	0		84	\$15,000
NATCHITOCHE	17	\$2,500	32	\$1,275	12	\$648	49	\$1,500
ORLEANS	197	\$87,500	89	\$7,500	57	\$32,000	286	\$50,000
OUACHITA	116	\$137,500	47	\$18,000	56	\$50,000	163	\$72,500
PLAQUEMINES	20	\$24,500	26	\$13,000	0		46	\$16,250
POINTE COUPEE	30	\$105,000	27	\$30,000	0		57	\$50,000
RAPIDES	156	\$84,500	142	\$7,100	50	\$6,750	298	\$16,150
RED RIVER	9	\$50,000	8	\$10,000	2	\$301,000	17	\$18,000
ST. JAMES	18	\$225,000	39	\$18,500	3	\$35,000	57	\$43,500
ST. LANDRY	29	\$75,500	33	\$6,500	1	\$10,000	62	\$14,625
ST. MARTIN	25	\$100,000	13	\$5,000	3	\$100,000	38	\$47,500
ST. TAMMANY	115	\$109,500	128	\$15,000	19	\$22,350	243	\$46,500
TANGIPAHOA	14	\$37,500	26	\$45,000	18	\$50,000	40	\$42,500
TENSAS	15	\$20,000	12	\$17,500	0		27	\$20,000
TERREBONNE	202	\$0	304	\$0	249	\$0	506	\$0
UNION	34	\$85,000	44	\$17,500	8	\$3,250	78	\$33,250
VERMILION	50	\$102,750	67	\$20,000	12	\$21,500	117	\$30,500
WASHINGTON	20	\$46,250	19	\$10,000	3	\$10,000	39	\$21,000
WEST CARROLL	9	\$50,000	18	\$16,000	2	\$7,316	27	\$25,200
WEST FELICIANA	7	\$50,000	9	\$33,500	1	\$35,000	16	\$34,250
WINN	12	\$47,500	36	\$50,000	5	\$10,000	48	\$50,000
TOTAL	2778	\$60,000	3166	\$11,000	716	\$6,000	5944	\$24,000

Table 2. Median Bail Amounts by Violent Crime and by Parish

# Acknowledgments

This report would not be possible without the brave people who shared their stories and knowledge with us: Aaron, Remedia, Al, Roy, Keith, Helen, Tee, Roland, Michael, Rev. Alexis Anderson, Chareese, and Ashley.

This report was researched and written by A’Niya Robinson, Racial Justice Fellow at the ACLU of Louisiana, and edited by Chris Kaiser, Advocacy Director at the ACLU of Louisiana, and Katie Schwartzmann, Legal Director at the ACLU of Louisiana. Hannah Walker and Jackson Wright’s work provided an invaluable foundation for this report. Oliver Hinds of the Vera Institute for Justice and Terry Schuster and Michelle Russell of Pew Charitable Trusts provided early and invaluable advice. Xeenia Ellison and Taiyiana Robinson performed essential data entry work. Michael Wilson of MW Consulting conducted detailed data analysis. Channing Ansley Grate, Laura Swinford, and GPS Impact edited, designed, and produced the graphics for this report. Silvia Gomez-Juarez provided exceptional translation.

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Last, but certainly not least, we are grateful to the ACLU Campaign for Smart Justice for funding the affiliate’s campaign to reform Louisiana’s pretrial system. Dasheika Ruffin, former Southern Regional Director for the Campaign for Smart Justice, assisted with early data collection and entry. The ACLU’s Ari Rosmarin and Udi Ofer

were important thought partners on this project. Finally, a sincere thank you to Interim Executive Director, Jane Johnson for her work, and our current Executive Director, Alanah Odoms Hebert for her leadership and commitment to seeing this report come to fruition. We are grateful for the staff, interns, board members, and supporters of the ACLU of Louisiana.

## About the ACLU of Louisiana

Since 1956, the ACLU of Louisiana has worked to advance and preserve the individual rights and liberties guaranteed by the Constitution and laws of the United States and the State of Louisiana. In June 2018, Alanah Odoms Hebert became the Executive Director of the ACLU of Louisiana. Under her leadership, the affiliate has returned to its roots – steeped in the anti-segregation movement – and carries forth its charge to defend the Constitution holding in equipoise the equal and corresponding duty to address racial injustice. Whether it’s ending mass incarceration, achieving full equality for lesbian, gay, bisexual and transgender people, establishing protections for immigrants and asylum seekers in our community, or safeguarding artists’ and activists’ right to free speech, the ACLU of Louisiana takes up the toughest civil rights and liberties cases and issues to defend all people particularly the vulnerable, the condemned, the incarcerated and the disfavored, from government abuse and overreach. We are part of a nationwide network of affiliates that fights tirelessly in all 50 states, Puerto Rico, and Washington, D.C.

# THANK YOU

ACLU OF LOUISIANA IS DEEPLY GRATEFUL  
TO OUR SUPPORTERS WHO MADE THIS  
REPORT POSSIBLE:

**THE ART FOR JUSTICE FUND**

**THE GUCCI CHANGEMAKERS  
IMPACT FUND**

**THE ROSAMARY FOUNDATION**

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