



COURTWATCH MINI REPORT

PREPARED BY

SOUTHERNERS ON NEW GROUND
NASHVILLE CHAPTER



WHO WE ARE



We are the Nashville chapter of Southerners on New Ground (SONG), a regional Queer and Trans liberation organization committed to a vision of abolition and freedom from fear. Rooted in southern traditions, SONG is a multiracial base-building organization that builds a beloved community of LGBTQ people in the South through organizing, leadership development, political education, collective action, regional gatherings and more. Like many of our comrades across the South, our chapter has launched a campaign to **#EndMoneyBail AND pretrial detention.**

We center an abolitionist approach to achieving our vision because we know that the cops, courts, cages, and codes of the Prison Industrial Complex (PIC) have historically harmed our community and have continued to have a particularly harmful impact on Black and Brown LGBTQ communities. We know the bail system in general disproportionately affects poor people by keeping them in cages because they cannot afford to post bail.

Consequently, those who must await their court date in jail face eviction, losing their jobs or wages, losing custody of their children, and often face worse plea deal and sentencing outcomes.

As a part of our work to change bail practices, we've been engaging in deep relationship building, research, raising awareness, court-watching, and bailing out our people.

SONG NASHVILLE DEMANDS AN END TO MONEY BAIL & PRETRIAL DETENTION IN OUR CITY.

In the spring of 2017, our chapter began participating in the Black Mama's Bailout Action, a national collective action that raises money to bail out Black women caregivers ahead of Mother's Day and in some cases provides social services and court-related support for 90 days after being released from jail. This year, we were one of ten cities who participated in the action. In doing this work, we are fighting on a local level for a world that does not rely on money bail, pretrial detention, or pretrial surveillance to operate. More generally, we are fighting to abolish the beast that is the PIC. We are working to build a world that prioritizes people over profits by reallocating government spending away from policing and carceral systems and **INSTEAD** towards adequate and dignified housing, education, employment, physical and mental health care, social services, and community centers. As a part of our overall End Money Bail and Pretrial Detention campaign, SONG Nashville calls for bail reform worthy of our people. In the final section of this memo, we provide a more in depth description of what we want and what we're working towards.

WHAT WE DID



WE OBSERVED AND RECORDED NOTES ON 114 BAIL HEARINGS OVER THE COURSE OF 61 DAYS.

In February and March of this year, our team posted up at Davidson County's Night Court, the place where judicial magistrates are-- among other responsibilities--tasked with conducting probable cause hearings and setting a bail bond.

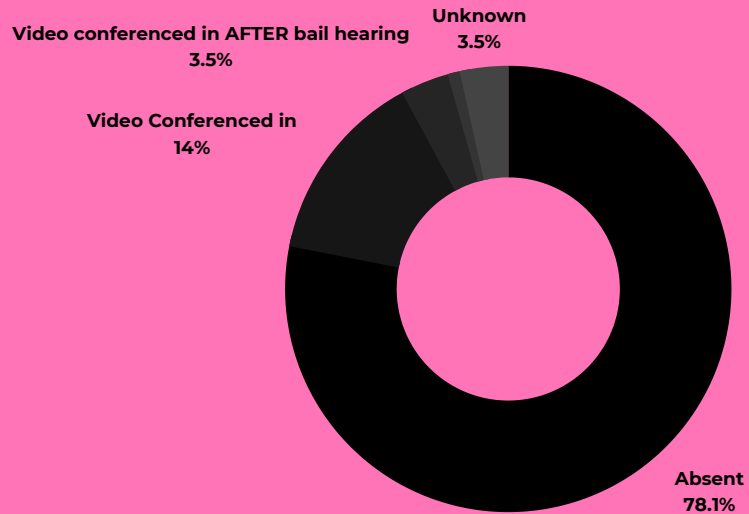
Since the Fall of 2017, magistrates are required by a memo submitted by the city's attorney to follow a decision-making process that relies on a pretrial release risk assessment tool to determine if an individual is released on their own recognizance, released through pretrial services, given an unsecured bond, or if they are given a secured bond. If given a secured bond, they are required to collect an affidavit of indigency and set a bond amount based on an assessment that must include one's ability to pay. These promises came in response to a lawsuit threat by attorneys at the D.C.-based organization Civil Rights Corps who warned the city of potential litigation efforts to contest our city's unconstitutional bail setting practices. Our primary focus in court-watching was to monitor the magistrates' adherence to the policies of the recent bail setting memo.

We observed and recorded notes on 114 bail hearings over the course of 61 days.* To follow up, we conducted interviews of two people whose bail hearings we observed and collected stories of caregivers from this year's bailout on their experience with money bail and pretrial detention. Although the night court is technically a public courtroom, we faced large barriers to access largely because of its location in a small, cramped trailer with limited space and seating. Due to these limitations, the magistrate on duty must rely on video conferencing technology to speak with individuals who have been arrested and await a bail hearing. The magistrate sits behind a glass window and speaks through a spotty microphone which often malfunctions. On the infrequent occasions when people are actually video conferenced into their bail hearings, it is often incredibly difficult to hear the interaction, making it impossible to appropriately monitor the judicial magistrate's process during video conferencing.

*These 114 hearings do not represent a statistically significant sample. While this data amount is statistically characterized as insignificant, we know that every instance of our city's unjust money bail and pretrial detention practices causes a significant amount of harm on impacted communities.

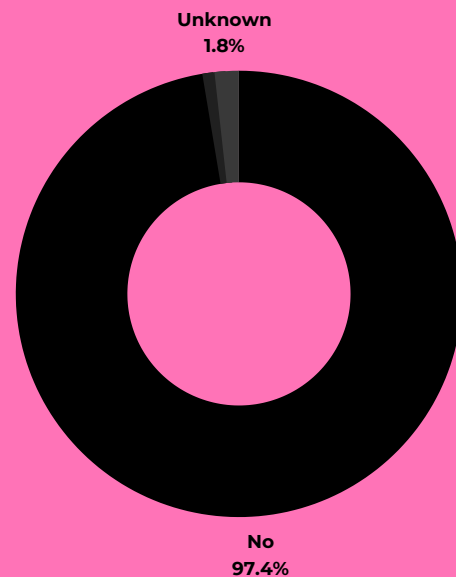
WHAT WE SAW

ARE PEOPLE PRESENT AT THEIR OWN BAIL HEARINGS?



NOPE. 78% OF PEOPLE WERE ABSENT AT THEIR OWN BAIL HEARING.

IS DEFENSE COUNSEL PRESENT AT BAIL HEARINGS?



NO. DEFENSE COUNSEL WAS NOT PRESENT AT 97% OF BAIL HEARINGS.

7 MINUTES

Average interaction time of bail hearings

5 MINUTES

Median value interaction time of bail hearings

83%

Percentage of bail hearings less than ten minutes

WHAT WE SAW

On the night of March 22, 2019, Tamera McKnight* was taken from her home by Metro Nashville Police, arrested, and booked in Hill Detention Center on a felony aggravated assault charge with a deadly weapon. The deadly weapon was a baseball bat allegedly used against a male friend who refused to leave her room. He called the cops on her and while she was taken away, he stayed in her home. Once in jail, she spent twelve hours in a holding cell with no food, medical care, or defense counsel. McKnight remembers of the night, "they just treat you like you're an animal. Ain't no justice...they just treat you like you're nothing. And sometimes it makes you feel like you're nothing. Sometimes it breaks you down to know that you're nothing." Not only did Tamera miss work, but she had to pay \$287-- money that she will never get back--to a bondsman to bond her out. Her full bail amount was \$2,500. Months later, she still remains financially burdened by the bail set by the judicial magistrate and struggles to pay her car note and her light bill. Her charges were eventually dismissed at her next court date.

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On the night of her arrest, a SONG member observed Tamera's bail hearing, conducted by judicial magistrate Steve Hopzafel. The interaction took all of four minutes, and

Hopzafel only considered testimony from perceived white male charging officer M. Kozen, who during the interaction admitted that he didn't know if the charges would even be accepted but that he "had to try." Tamera was neither present nor video conferenced into her own bail hearing. They asked no questions about Tamera's employment, length of residence in the community, or ability to actually pay the bail. There was no defense counsel present to advocate on her behalf.

They didn't ask me anything. I didn't have no video conference.

Netta Hall*, a Black mother of eight struggling to make ends meet, had a staggering bond of \$55,000 for a minor theft while on probation. During our bail monitoring, we've found that probation violations as well as failures to appear result in bail amounting to tens of thousands of dollars--if there is a bail set at all. Faring better than most with a bond so high, Netta spent nine days in jail, away from her children and unable to work. She describes, "Hell. It was hell. It was the worst experience I've had."

Hell. It was Hell. It was the worst experience I've had.

*Alternative names used to preserve anonymity

WHAT WE SAW

When Netta came up with the money to pay a bondsman \$2,000, she was released from jail only to discover that she lost her steady job as a certified nursing assistant. In the months following she has endured increased financial instability and even lost her home. Reflecting on the impact of money bail in her life, Netta comments, "I'm depressed. I'm stressed because school is around the corner and I don't have nowhere for my kids to go."

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All too often in our observations of Davidson County's Night Court, we witnessed similar unjust bail practices: many people were absent from their own bail hearings, did not have defense counsel, had bail hearings that were unbelievably short, were not asked questions about themselves or their needs for getting back to court, and were overwhelmingly not released on their own recognizance or even released for pretrial services, despite presenting no threat to public safety. Out of all the magistrates, Carolyn Piphus had the best track record of video conferencing in people to their bail hearings and for making use of the pretrial release program.

The Bail Bonding Industry

Outside of bail hearings, we frequently observed people being brought into the building in chains by self described bounty hunters. We witnessed Dominique*, a young Black woman captured by a bounty hunter in Memphis, brought into the trailer, handcuffed and with chains around her arms and legs to be searched by a white male police officer in a back room before being booked. We never witnessed a bail hearing for her, even though we saw she was booked and had a \$7,500 bond for "Capias Misdemeanor (General Sessions),"--most likely referring to missed a court date. Even something as small as a missed court date empowers armed bounty hunters to act just as their 19th century counterparts and track down people deemed "fugitives" by whatever means necessary. This practice of commercial bail bonding has been abolished in most other countries and in the U.S. states of Illinois, Kentucky, Oregon, and Wisconsin.** These modern day slave catchers are agents of our city's bail bonding companies who have historically been a major opposition group to meaningful bail reform. Stakeholders in the bonding industry often donate to judicial campaigns of general sessions and criminal court judges in order to maintain the corrupt bail system. These are the same judges who are responsible for ruling on bail reduction hearings and other bail-related matters in which people who are detained pretrial ask a judge to lower their bail amount because they are unable to pay the amount needed to be released.

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**Adam Liptak, "Illegal Globally, Bail for Profit Remains in U.S.," New York Times, Jan. 29, 2008, <https://www.nytimes.com/2008/01/29/us/29bail.html>.

WE DEMAND AN END TO MONEY BAIL & PRETRIAL DETENTION IN NASHVILLE.

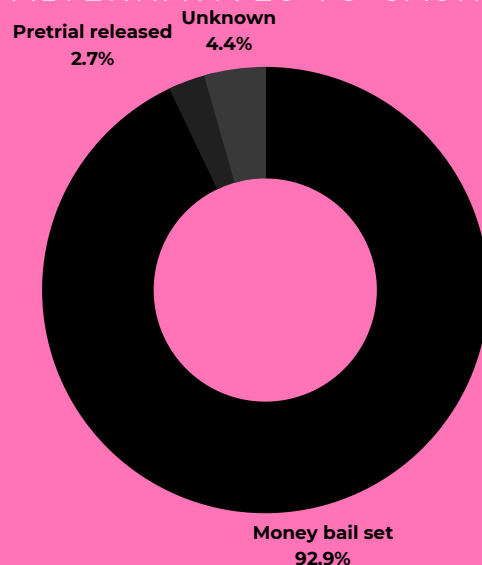
It is clear from our experience court-watching that to end money bail and pretrial detention, **judges and magistrates must ensure that:**

- **The most amount of people as possible are released without paying bail and without restrictions**
- **Every single community member accused of a crime is present and active at their bail setting**
- **They are relying on community-based services and alternatives to bail and pretrial detention**
- **Community members have adequate defense counsel**

It follows that **there must also be much greater public accessibility** to bail hearings in order to hold judicial magistrates, city and state attorneys, and other government officials accountable to the promises made by bail reform measures. We believe that **the Presiding General Sessions Judge and Chief Magistrate of the Night Court have a duty** to work with community members directly impacted by money bail to: create bail reform

measures that significantly reduce the number of people incarcerated pretrial; reduce the court's reliance on bail, problematic risk assessment tools, and costly electronic monitoring devices; and ensure that courts are accessible to the public.

ARE MAGISTRATES USING ALTERNATIVES TO CASH BAIL?



NO. JUDICIAL MAGISTRATES SET MONEY BAIL 93% OF THE TIME.



END THE INJUSTICE OF PREDATORY POLICING AND THE PRACTICE OF MONEY BAIL.

WE MUST STOP THE COSTLY CAGING OF OUR COMMUNITIES SIMPLY BECAUSE WE CAN'T PAY BAIL. WE NEED FREEDOM FROM POLICE OCCUPATION OF OUR NEIGHBORHOODS, ELECTRONIC MONITORING AND SURVEILLANCE, DETENTION, AND DEPORTATION. WE NEED THE PRESUMPTION OF INNOCENCE TO BE RETURNED TO POOR PEOPLE. FROM COPS TO COURTS TO CITY COUNCIL, WE COMMIT TO HOLD OUR ELECTED OFFICIALS ACCOUNTABLE UNTIL WE PUT AN END TO THE POLICIES THAT CRUSH, CAGE, AND KILL US.



INVEST IN OUR COMMUNITIES.

OUR PEOPLE NEED AFFORDABLE AND DIGNIFIED HOUSING, MEANINGFUL EMPLOYMENT, COOPERATIVE BUSINESSES, PUBLIC TRANSPORTATION, PREVENTATIVE HEALTHCARE, AND MENTAL HEALTH SERVICES. WE KNOW THAT TRUE SAFETY COMES NOT FROM INVESTING MILLIONS IN POLICE TERROR AND CAGES, BUT FROM COMMUNITY INVESTMENT THAT MEETS THE BASIC NEEDS OF OUR PEOPLE.



JOIN US!



Across the South, we are building Team Justice to **put an end to the policy and practice of money bail and pretrial detention**. We know that people belong at home, in our neighborhoods, families, and communities. No one should be held hostage in cages, simply because they can't pay bail.

An average of 700,000 people sit in jail cells everyday because they cannot afford to pay bail. The movement to end money bail and pretrial detention is growing. Join us as we fight!

We organize and fight for our towns and cities to be places where we can live and love **Free from Fear** in our full dignity. As a part of our long-term vision, we imagine a future that has abolished money bail and pretrial detention and instead addresses harm by tending to its root causes.

JOIN TEAM JUSTICE! JOIN THE SQUAD! LET'S GET FREE!

TO CONNECT WITH US OR FOR MORE INFORMATION:

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**END MONEY BAIL
BREAK EVERY BOND**