

# LATINX VOTERS WANT COMMONSENSE PRETRIAL

Latinx Americans,<sup>1</sup> the United States' fastest-growing demographic group, have an [increasing interest in criminal justice](#). A new national poll from the Pretrial Justice Institute and LatinoJustice PRLDEF (LJP) shows that Latinx voters want changes at the front end—or pretrial stage—of the criminal justice system.

Latinx communities are disproportionately penalized by pretrial detention decisions that are based on wealth instead of safety. A study of people charged with felonies in large urban counties found that money bail amounts for Latinx people are significantly higher than those for African Americans or whites under similar circumstances<sup>2</sup>, and only 33 percent of Latinx defendants are able to post bail, compared with 47 percent of African Americans and 58 percent of whites.<sup>3</sup> In Los Angeles alone, Latinx communities paid \$92.1 million in bond deposits between 2012 and 2016<sup>4</sup>; these monies cannot be recovered, even when charges are dropped or the person is found not guilty.

## LATINX VOTERS WANT FEWER ARRESTS, MORE COMMUNITY-BASED OPTIONS

In 2017, [LJP released a first-of-its-kind national poll](#) asking Latinx community members about their experiences with and opinions of the U.S. criminal justice system. The poll found that Latinxs are concerned about police violence, with a plurality (46 percent) agreeing with the statement “People like me are more likely to be stopped by police.” The new poll from the Pretrial Justice Institute and LJP looks more closely at Latinx voters’ thoughts and expectations for the pretrial phase of the criminal justice system.

This poll was commissioned by the Pretrial Justice Institute in partnership with LatinoJustice PRLDEF and was designed and administered by Lake Research Partners. The survey was conducted by phone using professional interviewers and reached a total of 261 Latinx voters (unweighted), whose responses were then weighted into the base sample to represent their natural distribution in the electorate (N=120). The survey was conducted May 2–17, 2018. The margin of error for the survey is +/- 6.2%.

Telephone numbers for the survey were drawn from a file of registered voters. The sample was stratified geographically to reflect the expected composition of registered voters nationwide. Data were weighted by gender, age, education, party identification, race, and region.

## PRETRIAL AND BAIL

Pretrial is the part of the criminal justice system that begins when a person comes into contact with law enforcement and ends when any resulting charges are resolved, usually through a dismissal, a plea, or a trial. A critically important element of the pretrial process is deciding whether an accused person should be released until his or her court date—or detained in jail because of concerns about public safety or court appearance.

“Bail” refers to the conditions a person must adhere to in order to be released pretrial. Although many people associate the term with secured money bail, it can also mean nonmonetary conditions, such as agreeing to check in regularly with a pretrial officer or to undergo drug or alcohol testing.

The U.S. Supreme Court has ruled that in the United States “liberty is the norm, and detention prior to trial or without trial is the carefully limited exception.”<sup>5</sup>



**For People With Pretrial Status, Latinx Voters Support:**

**78% favor providing court reminders / supervision**



**74% support providing transportation to court**



**91% favor mental health services**



**95% support services for victims of domestic violence**



**81% support services for drug/alcohol use**



The results show that Latinx voters believe that too many people are entering the criminal justice system through arrest; that detention should be used only to protect public safety; and that more community-based services would be fairer and more effective for people in the pretrial system. Specifically, Latinx voters want to:

**Reduce Arrests**

Pretrial is the “front door” of the criminal justice system; to reduce the number of people in the system overall, fewer people must pass through this door. Seventy-five percent of Latinx voters favor reducing arrests for low-level, nonviolent offenses.<sup>6</sup> This percentage increases to 86 percent—the greatest percentage of demographic groups polled—when citations are suggested as a way of responding to such offenses.<sup>7</sup>

**Restrict Detention**

Latinx voters want the justice system to focus on public safety, with limits on a court’s power to detain. Eighty-eight percent would give judges the ability to “detain people charged with a serious violent crime in jail without bail when it has been found in court that there are no options to get them back to court or protect public safety.”<sup>8</sup> However, Latinx respondents also want limitations on this power. Of all demographic groups polled, Latinx voters feel most strongly (58 percent) that the prosecutor should have to make the case for detention, rather than the person charged making the case for his or her release.<sup>9</sup> Almost three in four Latinx voters (73 percent) would limit the number of days a person could be held in detention on non-serious offenses.<sup>10</sup>

**Replace Money Bail**

Out of all demographic groups, Latinx voters are the most likely to strongly favor eliminating the secured money bail system and replacing it with either pretrial supervision or services (61 percent)<sup>11</sup> or with unsecured bond (72 percent).<sup>12</sup>

Among demographic groups polled, Latinx voters feel most strongly (57 percent) that supports such as court reminders, supervision, and referrals to services would be fairer to people of all income levels than money bail.<sup>13</sup> In strong numbers, Latinx voters favor community-based services for people in the pretrial phase (see sidebar).

The findings of this poll echo the LJP poll of Latinx opinions on criminal justice, which found that, by large margins, Latinx voters prefer funding for rehabilitation, drug, and mental health programs as ways to reduce crime, as opposed to more funding for incarceration or policing.

**Raise Equity**

While all demographic groups in the poll believe the wealthy have substantially better outcomes in the criminal justice system than poor and working-class people, Latinx voters show the strongest levels of support for this statement, with nearly nine out of 10 voters in agreement.<sup>14</sup> Additionally, 74 percent of Latinx voters feel that whites have more favorable outcomes than African-American people, Latinx people, and other people of color.<sup>15</sup>

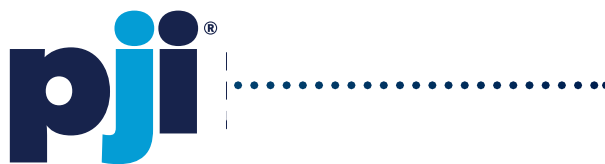
Research supports these perceptions. The average bail set for whites is \$28,340, compared to \$53,031 for similarly situated Latinxs.<sup>16</sup>

**RECOGNIZING LATINX IDENTITY IN THE CRIMINAL JUSTICE SYSTEM**

Many states do not regularly include Latinx in their race or ethnicity arrest data<sup>i</sup>, effectively making Latinxs—the country’s largest racial/ethnic groups—invisible. In spring 2018, the state of Florida passed legislation (SB 1392) requiring the collection and public release of criminal justice data, including information on ethnicity. Whereas in the past many jurisdictions in Florida over-reported Latinxs as whites with no disaggregation of Latinx identity, it is hoped that, finally and for the first time, communities and system stakeholders will be able to quantify how Latinxs, the largest ethnic group in Florida, are treated by the criminal justice system. As pretrial reforms continue, system stakeholders should be particularly aware of the need to collect accurate data, given the disparate impact of the criminal justice system on Latinx people and the troubling lack of consistent data collection across the many agencies that make up the criminal justice system. The LJP poll on Latinx opinions revealed that two-thirds of respondents thought it was important or very important to collect data on Latinxs in the criminal justice system.<sup>ii</sup>

i <http://apps.urban.org/features/latino-criminal-justice-data/>

ii <https://www.latinojjustice.org/en/news/national-poll-shows-latinos-are-concerned-about-police-violence-feel-less-safe-under-trump>



## A CLEAR MESSAGE AND A PATH FORWARD

Elected officials and justice system officials should be aware of the inequalities of the pretrial system that affect Latinx families—and of how Latinx voters want to fix these problems in the community. Latinx voters who responded to the poll have reiterated their preference for programs and policies that address the needs of people, rather than incarceration.

The poll also revealed a significant opportunity to educate and lead voters on this issue.

Eliminating money bail must be accompanied by a commonsense plan for a different pretrial model. When respondents learn about alternatives to money bail—such as court reminders and community-based supports—they become significantly more in favor of eliminating money bail and supporting programs that allow people to stay out of jail pretrial.

For more information or to get involved in pretrial justice reform, visit [www.pretrial.org](http://www.pretrial.org) and [www.latinjustice.org](http://www.latinjustice.org).

## Citations

1. For the purposes of this report, we use Latinx/Latinxs as gender-inclusive terms referring to people of both Latin American and Hispanic-language origins. We acknowledge that this term is broad, encompassing many populations with a wide variety of experiences in the United States.
2. T. Schlesinger, “Racial and ethnic disparity in pretrial criminal processing,” *Justice Quarterly*, 22(2), 170–192 (2005). These pretrial detention rates may be influenced by the use of immigration holds. See also: S. Demuth and D. Steffensmeier, “Impact of Gender and Race-Ethnicity in the Pretrial Release Process,” *Social Problems* 51(2), 222-242 (2004).
3. Schlesinger, “Racial and ethnic disparity.”
4. Isaac Bryan, Terry Allen, Kelly Lytle Hernandez, and Margaret Dooley-Sammuli, “[The Price for Freedom: Bail in the City Of L.A.,](#)” *A Million Dollar Hoods Report*, Ralph J. Bunche Center for African American Studies at UCLA (December 2017).
5. *United States v. Salerno*, 481 U.S. 739 (1987).
6. Q19 (r). “[Do you favor or oppose reducing] the number of arrests for low-level, nonviolent offenses.” Oppose, 22%; Don’t Know/Undecided/Refused, 3%.
7. Q19 (s). “[Do you favor or oppose reducing] the number of arrests for low-level, nonviolent offenses by issuing citations rather than arrests for those offenses.” Oppose, 10%; Don’t Know/Undecided, 4%.
8. Q19 (t). “[Do you favor or oppose allowing] judges to detain people charged with a serious violent crime in jail without bail when it has been found in court that there are no options to get them back to court or protect public safety.” Oppose, 7%; Don’t Know/Undecided, 5%.
9. Q11. “And when it comes to deciding how to release or not release someone from jail before trial, would you rather prosecutors have to make the case to keep someone in jail pretrial OR would you rather defendants have to make the case that they should be released?” Defendants should make the case, 21%; Neither/Don’t Know: 14%
10. Q19 (p). “[Do you favor or oppose limiting] how many days a person not charged with a serious violent crime can stay in jail during pretrial, if they cannot afford money bail.” Oppose, 20%; Don’t Know/Undecided, 8%.
11. Q19 (l). “[Do you favor or oppose eliminating] money bail entirely from the criminal justice system and [replacing] it with pretrial services and supervision.” Oppose, 30%; Don’t Know/Undecided, 9%.
12. Q19 (m). “[Do you favor or oppose] instead of requiring people to pay money upfront to be released from jail pretrial, requir[ing] unsecured bonds, which is a promise to pay a fine if they do not show up to trial. Oppose, 24%; Don’t Know/Undecided, 4%.
13. Q18. “And which do you think is fairer to people of all income levels: money bail OR supports, like court reminders, referrals to services, and supervision?” Money bail, 17%; Both/Don’t Know/Neither, 26%.
14. Q7. “Do you feel that the criminal justice system in the U.S. basically treats everyone fairly, or do you feel the wealthy enjoy substantially better outcomes from the criminal justice system than poor and working class Americans?” Fairly, 9%; Don’t Know, 2%.
15. Q9. “Do you feel that the criminal justice system in the U.S. basically treats everyone fairly, or do you feel white people enjoy substantially better outcomes from the criminal justice system than black people, Latino people, and other people of color?” Fairly, 22%; Don’t Know, 4%.
16. Schlesinger, “Racial and ethnic disparity.”