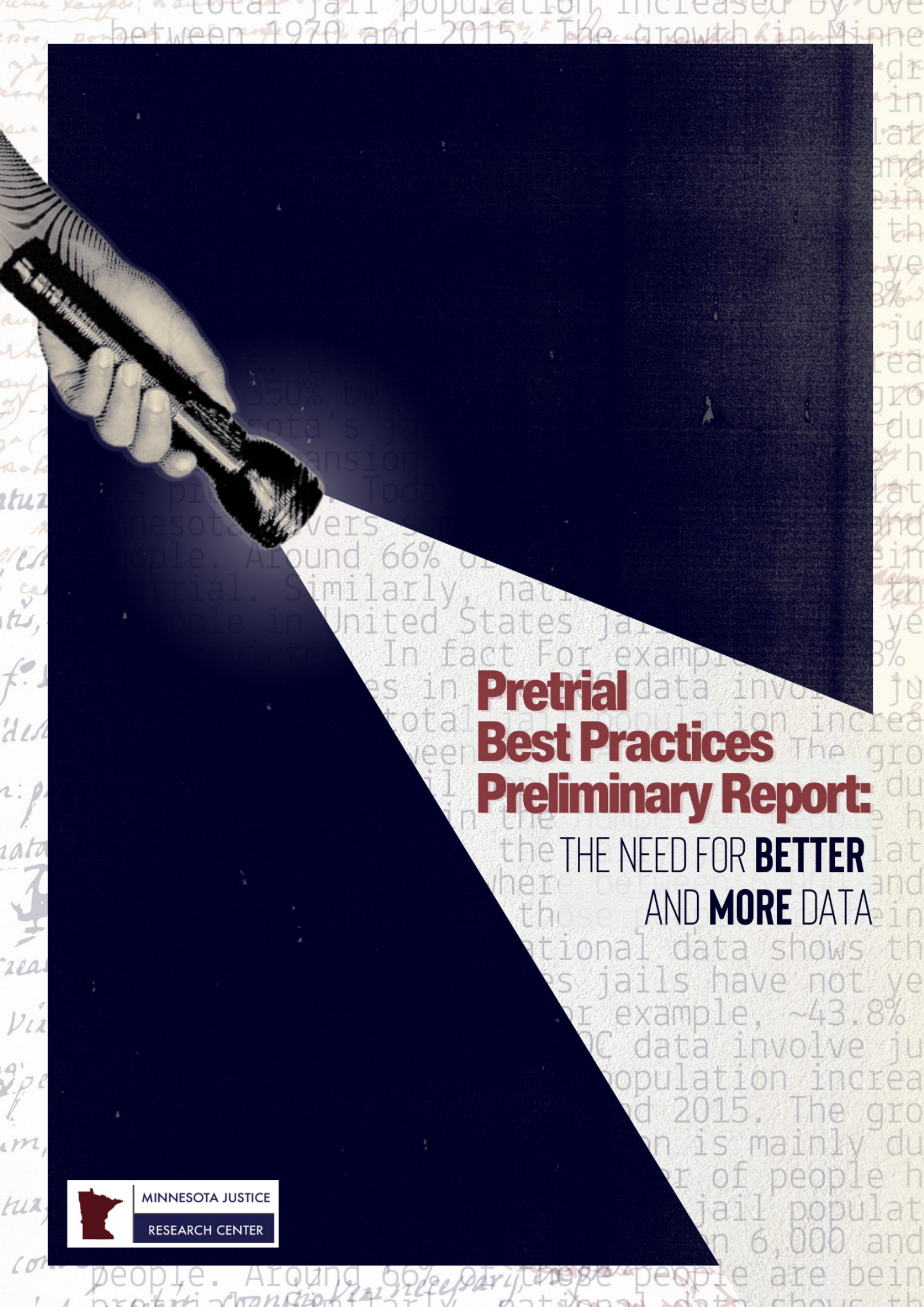




Pretrial Best Practices Preliminary Report:

THE NEED FOR **BETTER**
AND **MORE DATA**

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We are deeply grateful to the pretrial data experts across the country who took the time to share their experiences and ideas with us. We also thank the systems actors and stakeholders in Minnesota who graciously offered their perspectives and expertise. This report would not have been possible without their contributions. We extend our gratitude also to Michael Jones, Matthew Alsdorf, and Tammy Meredith for their invaluable feedback. Thank you to the MNJRC Pretrial Best Practices research team for their ongoing commitment to this work. We especially want to thank Dr. Ryan Larson for bringing his mastery of data systems and analysis to bear on this project. Lastly, thanks to Joanna Turner for her copy edits and to Paulina Buitrago for her masterful report design.

TABLE OF CONTENTS

EXECUTIVE SUMMARY	1
SETTING THE STAGE: A BRIEF BACKGROUND ON PRETRIAL	2
INTRODUCTION	3
CONSTITUTIONAL LAW ON PRETRIAL RELEASE AND DETENTION	3
United States Supreme Court	3
Minnesota Supreme Court	4
RULES GOVERNING PRETRIAL RELEASE IN MINNESOTA:	
HOW PRETRIAL RELEASE IS SUPPOSED TO WORK	4
EFFECTS OF PRETRIAL DETENTION AND MONETARY BAIL:	
THE HARMS AND CONSEQUENCES	5
DATA: THE NEED TO KNOW MORE	6
THE ROLE OF DATA	7
THE DATA LANDSCAPE: THE PICTURE IN MINNESOTA TODAY	7
DATA LIMITATIONS: WHAT ARE THE BARRIERS?	8
1. Opaque Request Processes	8
2. Access Inequity	8
3. Siloed data	9
4. Inconsistent Data Entry	10
QUANTITATIVE ANALYSIS: ATTEMPTING TO DIG IN	10
WHAT'S NEXT: THE WORK AHEAD	12
POLICY RECOMMENDATIONS	13
OUR NEXT STEPS	14
WORKS CITED	16

EXECUTIVE SUMMARY

The pretrial process represents a person's entry into the criminal legal system. In Minnesota, and across the country, the number of people held in pretrial detention has increased exponentially. Efforts to address pretrial practices have followed suit.

In this preliminary report, we provide a high-level summary of the current law of pretrial release and detention in Minnesota. We explore United States constitutional law, which affirms the right to pretrial release, and Minnesota constitutional law, which holds that pretrial release is "an absolute right in all cases." This pretrial release is often predicated on payment of monetary (or "cash") bail. We then briefly summarize the rules governing pretrial release and touch on how these current practices result in inequitable outcomes that have wide-reaching harms and consequences.

Considering this context, we turn to the role of data and then explore the current landscape in Minnesota where we identify several significant barriers to better understanding our pretrial system. In particular, we highlight *the opaque data request process, inequalities in access to data, challenges with siloed data, and inconsistent data entry*. As we explain, the lack of transparency of pretrial data makes it extremely difficult to understand and evaluate even the most basic aspects of the pretrial system.

We therefore recommend that Minnesota implement a single pretrial data infrastructure. Specifically, we examined best practices for pretrial data and recommend that the legislature:

- Identify a single state agency to act as a repository of data from local criminal legal system agencies across the state.
- Establish (and allocate funding for) a collaborative body to advise on and implement data transparency legislation.
- Require consistent and accurate data collection practices across the state.
- Enumerate a nonexhaustive list of data that must be collected by each type of criminal legal system agency.
- Require regular reporting to the single state agency identified above and allocate funding to state and local agencies for overhauling, implementing, and maintaining robust data systems.

- Create a public data dashboard.
- Require the state agency identified above to regularly publish data analyses.

This infrastructure will enhance the transparency of Minnesota's criminal legal system and, as a result, increase public confidence in the fairness and equity of the system. Moreover, system actors at every level will be able to use the data produced to study local practices and improve efficiency, efficacy, and fairness. A high-quality statewide pretrial data system is also critical long-term infrastructure. Should Minnesota make substantive changes to pretrial policy, an improved data system will allow for ongoing monitoring of those changes. Minnesotans deserve to know whether the policies that affect their lives are consistent with values like safety and equity. As it stands, the system makes it very difficult to determine whether Minnesota's pretrial policies live up to those values. A transparent, comprehensive data infrastructure moves us closer to that knowledge and, with that knowledge, to the capacity to change what isn't working well and strengthen what is.

The Minnesota Justice Research Center (MNJRC) is an independent, nonpartisan, nonprofit organization.

Through research, education, and policy development, we give our community the information and tools needed to create a criminal justice system that aligns with our commonly-held values.



Setting the Stage:

A Background on Pretrial



INTRODUCTION

Pretrial reform¹ is one of today's foremost criminal justice policy issues in the United States. Over the past 50 years, the number of people held in pretrial detention across the country has increased exponentially. In Minnesota alone, the total jail population increased by over 350% between 1970 and 2015 (Henrichson et al., 2019). The growth in Minnesota's jail population is due mainly to a dramatic expansion in the number of people held in jails while awaiting trial. Today, the daily jail population in Minnesota ranges between 6,000 and 7,000 people. Around 66% of those people are being held pretrial (Henrichson et al., 2019). Similarly, national data shows that 71% of people in United States jails have not yet been convicted (Sawyer & Wagner, 2023).

Discussions about pretrial reform often focus on money bail, also called cash bail, and the fact that people who cannot afford to post bail remain in jail for days, weeks, or months longer than those who can pay for their freedom. This reality raises important questions about the fairness, inequity, and effectiveness of bail systems that rely on financial conditions of release. Debates about pretrial justice also focus on other **critical questions**:

- To what due process is an accused person entitled prior to trial?
- What conditions of release can ensure community safety and court appearance?
- What role should risk assessment instruments play in a pretrial system?
- What supports do both accused people and victims/survivors need during the pretrial period?
- Is the system transparent about its practices and the effects of those practices?

Throughout the country, community members, criminal justice advocates, law enforcement leaders, prosecutors, defense attorneys, judges, and legislators have worked together to answer these difficult questions, leading to important changes in policy and practice.

Seeing the need for similar work in Minnesota, in May 2023, the legislature charged the Minnesota Justice Research Center (MNJRC) with three tasks (HF 2295 & SF 3254):

Review pretrial release practices in Minnesota and gather community perspectives about those practices;

Conduct a robust survey of pretrial release practices in other jurisdictions to identify effective approaches to pretrial release that use identified best practices; and

Analyze how practices in other jurisdictions could be adopted and implemented in Minnesota, including but not limited to analysis addressing how changes would impact public safety, treatment of defendants with different financial means, and community perspectives about pretrial release; and recommend policy changes for the Legislature's consideration.

In this preliminary report, we provide a high-level summary of the current law and practice of pretrial release and detention in Minnesota.² We then present the findings of our preliminary research, focusing on current pretrial data practices in Minnesota. We conclude by recommending that the legislature pass legislation to create a centralized pretrial data infrastructure in Minnesota.

CONSTITUTIONAL LAW ON PRETRIAL DETENTION

UNITED STATES SUPREME COURT

In 1951, the United States Supreme Court affirmed that the right to pretrial release is vital to our nation's legal tradition. It said: "The traditional right to freedom before conviction permits the unhampered preparation of a defense, and serves to prevent the infliction of punishment prior to conviction. Unless this right to bail before trial is preserved, the presumption of innocence, secured only after centuries of struggle, would lose its meaning" (Stack v. Boyle, 1951). This **right to freedom before conviction** has existed in the United States since at least 1789 (Stack v. Boyle, 1951). In that same case, the Supreme Court also explained the purpose

1. "Pretrial" means the time between arrest or citation and resolution of a criminal case, usually through a plea, trial, or dismissal.

2. Our analysis focuses on adult pretrial release and detention. Juvenile pretrial processes are governed by a separate set of court rules, which we do not explore here.

of bail. It reiterated that the purpose of bail is not to keep people in jail based on nothing more than an accusation. To the contrary, **bail exists to enable people to stay out of jail unless and until they are found guilty of a crime** (Stack v. Boyle, 1951).

MINNESOTA SUPREME COURT

With regard to pretrial release and detention, the Minnesota Constitution is more protective of individuals' liberty than the U.S. Constitution (State v. Brooks, 2000). Minnesota's Constitution states: "All persons before conviction shall be bailable by sufficient sureties, except for capital offenses when the proof is evident or the presumption great" (Minn. Const. art. I, § 7).³ Because capital offenses no longer exist in Minnesota, the Minnesota Supreme Court has explained, "all crimes are bailable." (State v. Pett, 1958). **In Minnesota, bail is "an absolute right in all cases."** (State v. LeDoux, 2009).

Importantly, the term "bail" means "release, or a process of release." It is not synonymous with an amount of money. "Cash bail" is simply a particular form of pretrial release (Schnacke, 2014). Because Minnesotans have a constitutional right to bail, courts must provide accused persons with an opportunity for pretrial release. To get out of jail, accused persons must meet any conditions of release, including posting money bail. In practice, this often means that people can exercise their constitutional right to release only if they can afford monetary bail.

Monetary bail is, legally and historically, only one possible condition of pretrial release (Schnacke, 2014). In Minnesota, in any case where non-monetary conditions of release are set, the court must also set an alternative monetary bail amount without other conditions (Minn. R. Crim. P. 6.02, subd. 1). This theoretically gives the accused person the choice between paying monetary bail with no conditions attached or agreeing to abide by non-monetary conditions of release. In practice, however, the judge often sets two monetary bail amounts: a lower amount with other conditions attached, and a higher amount with no other conditions attached. **In other words, unless an accused person is released "on their own recognizance" (without any conditions), they are usually required to pay some amount of monetary bail.**

Finally, the Minnesota Supreme Court has recognized that pretrial release benefits both the accused person, by relieving them of the burden of imprisonment while they are presumed innocent, and the State, by relieving it of the burden of detaining the accused. (State v. Storkamp, 2003). Therefore, the bail process serves dual purposes in Minnesota.

*The term **bail** means "release, or a process of release." It is not synonymous with an amount of money.*

***Cash bail** is simply a particular form of pretrial release. Since Minnesotans have a constitutional right to bail, courts must provide accused persons with an opportunity for pretrial release.*

RULES GOVERNING PRETRIAL RELEASE IN MINNESOTA: HOW PRETRIAL RELEASE IS SUPPOSED TO WORK

When a person is arrested, one of three things may happen. First, under certain conditions, law enforcement officers can release the person immediately following booking⁴ (Minn. R. Crim. P. 6.01, subds. 1–2). Second, if law enforcement does not immediately release the person, the individual may be able to post monetary bail without being seen by a judge. This happens when an existing bail schedule establishes the amount of monetary bail for the charged offense.⁵ Third, and in most cases, the accused person must appear in court so that the judge can set conditions of release. Monetary bail is one of several conditions of release that a judge can impose.

The accused person's first appearance in front of a judge generally must happen within 48 hours of an arrest,

3. Capital offenses are offenses that are punishable by the death penalty.

4. In misdemeanor cases, officers **must** cite and release an arrested person "unless it reasonably appears" that detaining the person is necessary to "prevent bodily injury to that person or another;" that "further criminal conduct will occur;" or that "a substantial likelihood exists that the person will not respond to a citation" (Minn. R. Crim. P. 6.01, subd. 1(a)). In gross misdemeanor and felony cases, officers **may** cite and release an arrested person unless any of these circumstances is present (Minn. R. Crim. P. 6.01, subd. 1(b)).

5. A bail schedule is a list of monetary bail amounts predetermined for different charges.

excluding weekends and holidays. At this first hearing, the judge determines whether conditions of release are necessary. Conditions of release, including monetary bail, are not required in every case. In fact, the Minnesota Rules of Criminal Procedure establish a “preference for pretrial release with no monetary conditions.” (State v. Brooks, 2000). The Rules also establish a preference for accused persons to “be released on personal recognizance or an unsecured appearance bond,” meaning no conditions or only the condition of promising to return to court are imposed (Minn. R. Crim. P. 6.02, subd. 1). However, if the judge determines that release “will endanger the public safety or will not reasonably assure the defendant’s appearance,” the judge may set conditions of release, including monetary bail.

Although a judge can consider public safety when determining whether to set conditions, when determining which conditions to set, the rules allow a judge to impose only those conditions that will “reasonably assure the person’s appearance as ordered” (Minn. R. Crim. P. 6.02, subd. 1). In other words, judges are required to set conditions only for the purpose of making sure the person comes back to court. The rules do not allow that conditions be imposed for the sole purpose of protecting public safety.

In fact, the Minnesota Rules of Criminal Procedure establish a “preference for pretrial release with no monetary conditions.”

To help a judge decide what conditions of release are necessary to ensure court appearance, judges consider factors like the nature of the crime charged, family and community ties, financial resources, mental condition, and the safety of others (Minn. R. Crim. P. 6.02,

subd. 2). Minnesota law also requires that the government conduct a pretrial risk assessment (using the Minnesota Pretrial Assessment Tool) for people accused of felony crimes of violence or various specified gross misdemeanors and misdemeanors⁶ (Minn. Stat. § 629.74). Based on these considerations, judges may set conditions such as pretrial supervision, restrictions on travel, monetary bail, or electronic home monitoring.

Judges are not permitted to set conditions of release based on a “standard practice” (State v. Martin, 2008). Instead, judges must determine conditions of release “on a case-by-case basis,” taking into consideration the characteristics and needs of the accused individual appearing in front of them. (State v. Rogers, 1986).

In sum, judges may (1) order an accused person released with no conditions (this is called “personal recognizance”); (2) order an accused person released upon payment of monetary bail; or (3) order an accused person released with non-monetary conditions. In the third situation, the criminal rules require that the judge also set monetary bail (without other conditions) so that the accused person may choose between release with non-monetary conditions and release by payment of monetary bail. Minn. R. Crim. P. 6.02, subd. 1.

EFFECTS OF PRETRIAL DETENTION AND MONETARY BAIL: THE HARMS AND CONSEQUENCES

Across the country and over the course of almost seven decades, researchers have examined many aspects of pretrial detention and release. This research shows that pretrial detention has wide-reaching effects on accused people, their families, and their communities.

First, research shows that those who are detained pretrial suffer worse case outcomes than similarly situated defendants released during the pretrial period (see, for example, Leslie & Pope, 2017; Lowenkamp et al., 2013; Stevenson, 2018). Second, pretrial detention can have widespread financial consequences, including loss of income, jobs, housing, and public benefits (see, for example, Baradaran Baughman, 2017). These financial consequences affect an accused person’s loved ones as well (see, for example, Piehowski et al., 2023). Third, research shows that pretrial detention does not actually improve community safety and, in fact, makes communities less safe in the long run (see, for example, Carey et al., 2017; Dobbie et al., 2018). Fourth, monetary bail does not increase the likelihood that someone will appear for court (see, for example, Jones, 2013; Monaghan et al., 2022; Ouss et al., 2022). Fifth and finally, there are large racial disparities in the use of pretrial detention (Prison Policy Initiative, 2019).

We will explore this research in more detail in our next report (February 2025).

⁶. Some counties conduct pretrial risk assessments for other charges, but doing so is not required by state law.



Data:

The Need to
Know More

THE ROLE OF DATA

Data plays a critical role in the design and implementation of an effective and fair pretrial system. Data helps community members and policymakers understand who is being held in Minnesota jails, and why, and who is being released, and why. That information, in turn, makes it possible to identify current pretrial trends and practices and evaluate the effectiveness of those practices at both the local and statewide levels. Data also enables Minnesotans to track the impact of any changes to Minnesota's pretrial system. Finally, collecting and publishing data on a consistent basis makes our legal system more transparent to members of the public.

In Minnesota, the lack of data, even at the county level, makes it extremely difficult to understand and evaluate even the most basic aspects of the pretrial system. In the course of our research, we heard from researchers, advocates, and systems actors about the desperate need for comprehensive statewide pretrial data.

In response to this identified need, we attempted to collect and analyze Minnesota's pretrial data. During the course of this work and our conversations with stakeholders, we identified major gaps in the state's pretrial data system. **We find that Minnesota's current pretrial data system fails to meet basic quality, transparency, and equity standards. We conclude that building a statewide pretrial data infrastructure is essential to understanding and improving Minnesota's pretrial system.**

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THE DATA LANDSCAPE: THE PICTURE IN MINNESOTA TODAY

Data relevant to pretrial detention and release are collected by numerous local and state entities throughout Minnesota. Locally, police departments, Sheriff's departments, jails, courts, prosecution offices and defense offices each collect data. Data collection and sharing practices vary extensively among, and often even within, local jurisdictions.

At the state level, centralized data relevant to pretrial release and detention is held primarily by two agencies: the Department of Corrections (DOC) and the State Court Administrator's Office (SCAO).

The DOC houses individual-level booking data collected by Minnesota's jails. This booking data includes not only information on pretrial jail bookings, but also information on individuals being held for another authority or due to violations of the terms of conditional release, for example. All jails and police departments must report all booking data to the DOC regularly. Importantly, the data collected by DOC do not include information on monetary bail amounts. **Because jails collect much of the state's pretrial data, it is critical that their data collection and transfer practices are reliable and consistently implemented.**

Jail booking data maintained by the DOC typically includes demographic information and basic information about arrest, intake, and release. Some local jurisdictions also collect and report the reason for a person's release from a jail and any monetary bail amount set. Not all counties in Minnesota collect this information, however, which complicates both between-county comparisons as well as state-wide analyses. This inconsistency and its implications are explored more below.

The SCAO maintains the case-level court system data collected by Minnesota's judicial districts. The SCAO data consists of all criminal court filings in all 10 state court districts in Minnesota. Court staff in each district collect and enter case information into the state's case management system. The SCAO has access to all information entered by local court staffs. However, the court case management system is a court records and case processing system, not a data repository. In other words, the data is collected for use by judges, attorneys, and accused persons in individual cases, not for use by analysts. The SCAO's mission is to document the course of individual court cases, pursuant to its statutory obligations, rather than to provide access to bulk data or analysis of that data.

Because criminal cases often remain open for months or even years, the case management system captures large amounts of data. Case-level data maintained by the SCAO typically includes information about the

charges, attorneys assigned to the case, conditions of release, and case disposition. The SCAO data also contains financial information on each criminal case, including bail amounts and monetary sanctions imposed at sentencing (e.g., fines, fees, and restitution). **In short, there is data from which it is (at least theoretically) possible to identify trends and patterns associated with different criminal legal practices. But to realize that possibility, it is necessary to streamline and standardize data collection practices across systems.**

Finally, county and state providers of community supervision also collect some data relevant to pretrial policy. Three entities are responsible for community supervision of people accused and convicted of crimes: the Minnesota Department of Corrections (DOC), Community Corrections Act Counties (CCA), and County Probation Offices (CPO). All three of these agencies use the Court Services Tracking System (CSTS) to report supervision data, including data related to pretrial supervision. This data, too, is critical to understanding the effectiveness and impact of Minnesota's current approach to pretrial supervision and to identifying areas for improvement.

In other words, the data is not collected for use by analysts, but rather for use by judges, attorneys, and accused persons in individual cases.

DATA LIMITATIONS: WHAT ARE THE BARRIERS?

Through our research—including conversations with local stakeholders—we identified four main limitations of Minnesota's current pretrial data practices.

1. OPAQUE REQUEST PROCESSES

Over the past ten years, numerous organizations and individuals have tried to obtain and analyze pretrial data in Minnesota. No group has yet been successful at this endeavor, despite the attempts of coalitions with expertise in criminal and civil law, pretrial policy, and research, as well as connections to systems actors and other stakeholders. This is due to the difficulty of making effective requests to the correct entities.

Because of the lack of transparency, advocates and research organizations have struggled to identify data sources, which has also made crafting accurate and comprehensive data requests extremely challenging. To make a request that is ultimately useful for research and advocacy, an interested party must first know both what kinds of data the state routinely collects and in what format the state collects it. Even this information is difficult to find. We spoke with public defenders who, despite their deep knowledge of Minnesota's criminal legal system, noted that their data requests were either not fulfilled, not fulfilled timely, or had unusable or incomplete data. This was due in part to the fact that they did not know to which agency to direct their requests, nor did they know what data was actually available and accessible.

Because of the lack of transparency, advocates and research organizations have struggled to identify data sources, which has also made crafting accurate and comprehensive data requests extremely challenging.

After a year of exploration, one coalition was ultimately able to obtain five years of individual-level booking data from the DOC. However, the coalition was never able to obtain corresponding data from the SCAO. We explain why in the next section.

2. INEQUITABLE ACCESS

Structural and logistical disparities in access to data continue to erode the public's trust in our criminal legal institutions and prevent Minnesotans from developing a holistic understanding of our pretrial system. The Minnesota Government Data Practices Act (MGDPA) makes all government data "collected, created, received, maintained or disseminated by a government entity" presumptively public (Minn. Stat. § 13.03). Nonetheless, various rules and policies limit or prevent access to pretrial data.

For example, one section of the MGDPA classifies all corrections and detention data as private to the extent that the data would "disclose medical, psychological, or financial information, or personal information not related to their lawful confinement or detainment" (Minn. Stat. § 13.85). The statute does not define what per-

sonal information would be classified as unrelated to detainment. One result of leaving that question open is that there is no consensus among Sheriff's offices across the state about whether certain types of data collected during the jail booking process can be released to the public. For example, many—but not all—Sheriff's offices refuse to provide researchers with race data, asserting that such data is personal information not related to a detainee's lawful confinement. The DOC, on the other hand, releases race information when it provides jail data. Ultimately, lack of clarity in the law means that some requestors will get complete pretrial data, while others will not.

Another section of the MGDPA provides that the "judiciary is not governed" by the MGDPA (Minn. Stat. § 13.90). Instead, data of the judiciary is governed by the Rules of Public Access to Records of the Judicial Branch, which are adopted by the Minnesota Supreme Court rather than the Legislature. These rules prohibit the provision of case-level race data unless the recipient "executes a nondisclosure agreement" with the SCAO and "obtains an order from the Supreme Court authorizing the disclosure" (Minn. R. Jud. Branch, Rule 4, subd. 1(e)(1)(A)). The process of obtaining both a nondisclosure agreement and an order from the Supreme Court is difficult and requires both institutional authority and legal capacity.

Moreover, under Rule 8 of the Judicial Branch's public access rules, records of criminal cases in which there was no conviction are not available to the public remotely. Such records can be accessed at the courthouse, but only one at a time. This renders the data virtually unusable for larger system analyses. **This means that no member of the public can obtain case-level court system data for people whose cases were ultimately dismissed or otherwise did not result in a conviction.** This significantly limits the public's ability to obtain or analyze pretrial data in Minnesota.

Ultimately, lack of clarity in the law means that some requestors will get complete pretrial data, while others will not.

Notably, these restrictions to case-level data access apply to private, research-focused non-profits like the MNJRC, which was denied access to pre-conviction and race data held by the SCAO. National pretrial research organizations, including [Vera Institute for Justice](#) and [Measures for Justice](#), were also denied access to the data. **Individuals and groups with legitimate scholarly and investigational interests in understanding the pretrial system cannot get the data, or even reports based on that data, necessary to understanding and evaluating current pretrial practices.**

3. SILOED DATA

Even when researchers are able to obtain all relevant pretrial data, comprehensive analysis of that data is very difficult—and some types of important analyses are simply impossible. This is due mainly to the sheer number of agencies that collect and maintain the data. Although the DOC and SCAO each collect massive amounts of data that is relevant to pretrial, they use different data management systems. These systems simply do not "talk" to one another—they have different structures, different data collection practices, and different variable names, to name just a few issues. In other words, it is difficult to answer questions that require information from the two different datasets.

For example, a researcher might want to know whether there are patterns in length of pretrial jail stay and conviction. Are longer stays correlated with higher likelihood of conviction? Unfortunately, it is challenging to determine the relationship between number of days spent in jail and case disposition because that analysis requires intake and release dates from the jail and case disposition data from the courts for the same people and cases. Researchers must match these data using a single identifying case variable that is (1) collected and stored consistently across systems and (2) does not violate privacy laws and policies. Unfortunately, there is no such case variable. Therefore, because these types of information are maintained in different data systems, integrating them is extremely difficult at best and, at worst, impossible. Analytical strategies to merge datasets without an identifying case variable (e.g., by using probabilistic matching algorithms) are complex data science techniques. Consequently, it is extremely difficult for everyday practitioners and advocates to combine datasets and conduct the types of analyses that are essential for understanding Minnesota's pretrial system.

This challenge is particularly acute in Minnesota because the pretrial process involves so many stakeholders and agencies: law enforcement, jails, courts, probation, the DOC, the SCAO, and more. Notably, even data

experts at these agencies struggle to pull together the relevant data. For example, in order to conduct complete analyses of pretrial data, staff at one state agency must either use proxies for data held by other agencies or file their own requests for that data. The process of requesting data from other agencies is further complicated because each agency has different rules for accessing data. Again, while DOC data is governed by the Minnesota Government Data Practices Act (MGDPA), SCAO data is governed by Judicial Branch rules. Researchers within these agencies must develop complex data-sharing agreements that account for the different rules and regulations governing their respective work.

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4. INCONSISTENT DATA ENTRY

Both court data and jail booking data suffer from inconsistent data entry practices—a challenge for any system with many employees but a challenge that can be addressed with clear and consistent administrative data practices and improved systems.

The DOC acts as the repository for data from Minnesota’s 74 jails, as well as data from local police departments and the airport. However, each jail collects and reports certain types of data slightly differently. This is likely due to the fact that court employees enter those data manually. We explore this issue in more detail in the following section.

The courts, by contrast, have administrative processes that ostensibly guide how court staff enter data. But there are structural issues that inhibit uniform data entry. Courts’ data systems, for example, have too many “open fields” – i.e., fields that allow staff to type anything – which results in inconsistent reporting of similar cases or characteristics in the data. Ideally, the data systems should have fields that allow staff to select from only a small number of predetermined answers.

QUANTITATIVE ANALYSIS: ATTEMPTING TO DIG IN

Our team requested 5-year data extracts from both the Department of Corrections (DOC) and the State Court Administrator’s Office (SCAO). We focused our requests on data relevant to pretrial release and detention. During this process, we faced many of the challenges detailed above. For example, MNJRC was denied access to a complete dataset from the SCAO. Instead, SCAO would provide MNJRC with data on only cases that resulted in conviction, significantly limiting our ability to understand many critical issues, such as the effects of pretrial detention on case disposition.

Our team was able to obtain a 5-year extract of jail booking data from the DOC, and our quantitative research team has begun to clean, explore, validate, and examine patterns of missing data within the DOC data extract. In the course of this work, our quantitative analysts encountered a number of issues with the integrity of the dataset.

For example, the majority of jails in our pretrial dataset leave the “suspected offense” text field blank, while those jails that do report the suspected offense do not enter the data consistently. In other words, within the same jail, we found that staff entered the same suspected offense differently in the same data fields. **As a result, our quantitative analysts spent considerable time attempting to harmonize jail booking datasets from different counties and, in some cases, reached issues that were simply unsolvable without more information about what jail staff meant by the various terms they used for suspected offense and other data categories.**

Our analysts also took a number of steps to combine the data into a single dataset. First, because the datasets from different counties were provided in different formats, our team changed all the county datasets to the same file format. Then, our analysts harmonized them in order to make each dataset comparable, before combining them into a state-wide dataset amenable to both state-wide analyses and comparisons across counties. The majority of this work was to ensure the variables (i.e., fields) were identical in name and type across each county dataset, which was not the case with some of the fields in the raw data we received.

After cleaning the dataset, our quantitative team began examining the structure and patterns of missing data within the DOC data. Each jail booking is a separate row. If the jail booking involves multiple charges for the

same person, there are multiple rows for that person: one row for each charge. In other words, if John Smith is booked for both fifth degree assault and disorderly conduct, he would appear in two rows of the dataset: once for assault and once for disorderly conduct. Thus, to examine the number of individuals subject to jail detention in a given time and space, our analysts must use a unique person identifier that is consistent across counties. Furthermore, to analyze the number of bookings, our analysts must have a unique booking identifier that is consistent across counties. In our preliminary investigation of the DOC data, we were able to identify both a unique person identifier and a unique booking identifier.

Given our analysts continued efforts at cleaning and validating the data, we are not able to present any data analysis or findings at this time due to concerns regarding the integrity of the data. Our team is investigating how missing and incomplete data may impact the integrity and viability of essential quantitative analyses. These validity checks must be complete before we can produce any reliable numbers that are reflective of current pretrial practices and trends in Minnesota.

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What's Next: The Work Ahead



POLICY RECOMMENDATIONS

In sum, various stakeholders in Minnesota, including county and city attorneys, public defenders, researchers, and advocacy groups, have raised major concerns about the lack of comprehensive, centralized data about Minnesota's pretrial system. In fact, centralized and comprehensive criminal legal system data overall is severely lacking in Minnesota.

Minnesota is not the exception here: poor data practices are the norm across the country. Some jurisdictions, however, have instituted changes and are making strides toward data integrity and transparency. Minnesota has the opportunity to be a leader in this area. To better understand the effectiveness and outcomes of the current pretrial system in Minnesota and to track the impact of any substantive policy changes to that system, we recommend that the state develop a pretrial data infrastructure.

We interviewed pretrial data systems experts from Minnesota and across the country, and we examined the data collection and reporting practices of various jurisdictions to identify how best to build a pretrial data infrastructure. We interviewed fifteen pretrial data experts with a variety of backgrounds and approaches. This group included criminologists, law professors, state court data analysts, directors of state pretrial programs and state court administrative systems, and criminal justice researchers. Based on our research, we suggest the following steps be taken to create and implement a pretrial data infrastructure in Minnesota:

- **Identify a single state agency to act as a repository of data from local criminal legal system agencies across the state.** Measures for Justice (MFJ), an organization focused on making criminal legal systems accountable, accessible, and transparent, recommends that the agency tasked with this work have staff with [specific capabilities](#) related to data analytics. The State Court Administrator's Office (SCAO) is likely the best agency to act as a repository, as the office already maintains all court system data and has an internal data quality unit.
- **Establish a collaborative body to advise on and implement data transparency legislation.** A standing body of stakeholders is essential to implement an effective pretrial data infrastructure. The standing body would provide ongoing advice about the types of data analyses that are necessary for understanding and evaluating the pretrial system. The body would also allow for information-sharing and problem-solving among the agencies who collect and store pretrial data. The body should include representatives from all major criminal legal system agencies, including the DOC, the SCAO and the Judicial Branch, public defenders, prosecutors, law enforcement, and probation. It should also include community nonprofits and individual community members with expertise in data systems and pretrial policy. Illinois' [Pretrial Practices Data Oversight Board](#), which is contained within the Illinois [Office of Statewide Pretrial Services](#), is an excellent example of this type of body.
- **Allocate funding so the standing collaborative body can consult with an organization that specializes in implementation and evaluation of pretrial data systems.** Various organizations support jurisdictions across the country that are modernizing their criminal legal data systems and integrating data from various agencies. Examples include [Cuny Institute for State and Local Governance](#), [Crime and Justice Institute](#), and [Measures for Justice](#).
- **Require consistent and accurate data collection practices across the state.** Agencies of the same type must collect and record data in the same way. For instance, jail staff must all record the crime of arrest using the same format. Likewise, demographic data must be recorded consistently and accurately by all criminal system agencies. To achieve these and related goals, legislation should require each entity that collects pretrial data to develop administrative processes to guide data entry and to ensure greater consistency and accuracy across jurisdictions in the state. It is imperative that local data collection and transfer practices be both reliable and consistent.
- **Enumerate a nonexhaustive list of data that must be collected by each type of criminal legal system agency.** Measures for Justice's [model data legislation](#) provides an excellent list of the types of data that are important to collect. Note that MFJ's legislation is focused on criminal legal system data overall, not just pretrial data. Illinois' [Pretrial Fairness Act](#) identifies pretrial data that are essential to

collect. One of the most important, but least available, types of data collected by Minnesota's criminal legal system agencies is reliable race and ethnicity data. Legislation should require consistent collection of race data by at least some, if not all criminal legal system agencies. We also recommend requiring collection of data on diversion, dismissals, reasons for dismissals, and other outcomes in criminal cases.

- **Require regular reporting to the state agency identified above.** All of the states that have centralized criminal legal system data collection processes require at least quarterly reporting by state and local criminal legal system agencies. For example, [Florida](#) requires that state agencies report data monthly to the Florida Department of Law Enforcement. [California](#) also requires that data be reported monthly. In [Illinois](#), data must be reported quarterly.
- **Allocate funding to state and local agencies for overhauling, implementing, and maintaining robust data systems.** Agencies will likely need to hire additional staff, update case management systems, and develop new processes for data entry. It is important that the state support local entities who otherwise may not be able to afford implementation.
- **Create a public data dashboard.** One of the guiding values of a good pretrial system is transparency. Toward that end, legislation should require the creation of an interactive data dashboard or other comparable tool. Many of the experts we interviewed described [New York City's](#) dashboard as an excellent model. Some were also enthusiastic about [North Carolina's](#) dashboard. The data tool that Minnesota creates should be interactive, allowing members of the public, researchers, and other interested parties to answer diverse questions about Minnesota's pretrial system.
- **Require the state agency identified above to regularly publish data analyses.** In addition to an interactive, public data dashboard, the state agency tasked with holding the data should publish analyses of the data at least annually. [New Jersey](#) provides a strong example of comprehensive annual data analysis and reporting.

OUR NEXT STEPS

The Minnesota Justice Research Center (MNJRC) will submit its final report and recommendations to the legislature on February 15, 2025. To aid in developing those recommendations, the MNJRC will conduct the following types of research over the next year:

- **Quantitative Research:** Team members will conduct quantitative analysis of datasets from Minnesota agencies that hold relevant pretrial data. The analysis will seek to answer key questions about Minnesota's pretrial system. It will also support our team in identifying further gaps in Minnesota's current data collection practices.
- **Formal Interviews:** Our team will interview systems actors in Minnesota, including judges, prosecutors, defense attorneys, sheriffs, and probation officers. We will also continue to interview pretrial experts across the country, including in jurisdictions where pretrial reform has been enacted or attempted.
- **Community Engagement:** Part of our task is to better understand community perspectives about pretrial release. To that end, we will convene listening sessions and focus groups across the state. These sessions will engage people in custody in Minnesota jails, as well as faith groups, victim-survivor groups, youth, tribal communities, re-entry organizations, and more.
- **Direct Observation:** We will conduct in-court observations of pretrial processes in Minnesota and in jurisdictions where pretrial reforms have been implemented. That work includes attending court hearings and interviewing systems actors, community members, and policymakers in those jurisdictions. Our goal is to learn the benefits and drawbacks of practices adopted in those jurisdictions, from the perspective of both legal practitioners and community members impacted by the criminal legal system.
- **Legal Research:** Our team will complete a comprehensive review of the law governing pretrial release in Minnesota. This will include an analysis of case law, statutes, and court rules. We will identify

key legal standards that guide and shape pretrial practices in Minnesota and use these standards to analyze the viability of identified best practices within Minnesota's unique legal system.

- **Literature review:** We will continue to gather, review, and analyze literature related to pretrial practices, including law review articles, analyses of bail reform in other jurisdictions, and policy proposals authored by national organizations with experience with pretrial practice and policy.

Our final report will bring together the data we gather through these various methods. The result will be a set of recommendations that is evidence-backed, community-centered, and Minnesota-focused.

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