



1212 New York Ave. N.W.,
Suite 900
Washington, D.C. 20005
202-525-5717

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To the Members of the Michigan Joint Task Force on Jail and Pretrial Incarceration:

My name is Jesse Kelley, and I am a government affairs manager for the R Street Institute, a nonprofit, nonpartisan public policy research organization. Our mission is to engage in policy research and outreach to promote free markets and limited, effective government in many areas, including jail and pretrial reform.

As you know, crime rates in Michigan are at 60-year lows, but incarceration rates are three times higher than they were in 1960.¹ We agree with the goals outlined by this task force and believe that improving data collection, expanding alternatives to jail and limiting pretrial incarceration in all of Michigan's county jails can bolster human dignity, maintain family connections, ensure public safety and promote fiscal responsibility.

Additionally, policymakers should endorse policies aimed at reducing jail admissions through more fair and effective police and prosecutorial practices as well as revisions to misdemeanor sentencing and pretrial laws.

Collect data to understand the demographics of those being detained

Data collection and analysis is necessary to understand each jurisdiction's unique jail landscape and adequately address its needs through policy change.

It is incredibly difficult to effectively address jail populations without a complete picture of who is entering jails and why. Unfortunately, even basic information is often left uncollected or disaggregated to the point of uselessness. In fact, the vast majority of Michigan's 83 counties have their own record-keeping systems, making it difficult to assess—much less compare or change—incarceration policies that may contribute to crowded jail cells.

¹ Riley Beggin, "Michigan jails fill as crime sinks and nobody seems to know why," *The Bridge*, July 24, 2019, <https://www.bridgemi.com/michigan-government/michigan-jails-fill-crime-sinks-and-nobody-seems-know-why>

It's a patchwork system that costs taxpayers roughly half a billion dollars each year.

To improve this system, jurisdictions should prioritize the collection and analysis of data related to jail populations and their sources, including prosecutorial charging and bail decisions as well as policing practices, especially as they apply to arrests. This information can reveal a jurisdiction's unique challenges and help ensure that reform policies are effective.

With this data in hand, Michigan's policymakers will be able to effectively reform jails and pretrial detention.

Expand alternatives to jail

Developing and implementing alternatives to detention in a county jail can provide additional sentencing options, prevent lasting harm to families and communities and improve public safety.

Every person charged with or convicted of a crime has a unique background and set of challenges, yet all too often incarceration serves as a costly, one-size-fits-all approach that fails to address underlying issues. If courts have options other than incarceration, they can better tailor a cost-effective sentence that fits the person and the crime, protects the public and provides rehabilitation.

Maintaining family connections after a criminal conviction is key to successful recovery and reentry. Being detained in a jail separates the offender from their parents, spouse and children. Alternatives to incarceration keep people with their families, in their neighborhoods and jobs, and allow them to earn money, pay taxes and contribute to their communities.

If the goal of the criminal justice system is to increase public safety, then jail detention is not always the most effective tool to reach that end. In fact, the unnecessary detention of low-risk individuals prior to trial can actually reduce public safety by increasing the odds of rearrest after release. Public-safety-minded policymakers should focus on policies that eliminate unnecessary detentions and otherwise free up law enforcement resources by increasing diversion and revising charging policies for low-level offenses.

Limit pretrial incarceration

The majority of individuals held in jails are part of the pretrial population, meaning they have yet to be convicted of whatever crime is alleged. Across America, the pretrial population has driven 99 percent of jail population growth over the past 15 years. Put another way, 99 percent of the jail population increase was due to the detention of citizens who were presumed, under the law, to be innocent.

Our pretrial system currently detains individuals who could be safely released prior to trial. These unnecessary detentions are an affront to the presumption of innocence and a waste of taxpayer dollars.

Jurisdictions should reduce their pretrial populations through careful reforms to existing bail practices, stressing pretrial release as the default presumption and empowering pretrial services to engage in less invasive interventions, such as text reminders to defendants about upcoming court dates.

Please find submitted with this testimony an educational R Sheet on jail reform penned by Senior Fellow Lars Trautman and myself. Thank you for your time.

Sincerely,

Jesse Kelley

Manager, Government Affairs
Manager, Criminal Justice & Civil Liberties
R Street Institute
jkelly@rstreet.org