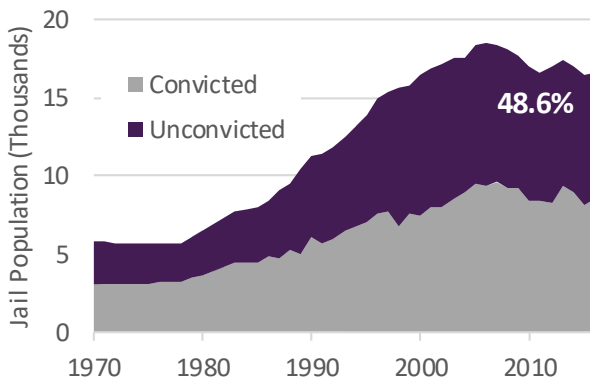


# Promote Liberty and Public Safety in Pretrial Decision-making

*The recommended policies improve pretrial procedures to prioritize detention of the riskiest defendants*

## Background

The purpose of pretrial detention is twofold: to protect the public from people who have committed serious offenses and may do so again if released, and to prevent people from fleeing justice before their conviction. But many people held pretrial in Michigan pose neither a public safety risk nor a likelihood of flight and are incarcerated simply because they cannot pay the money bail required. The Michigan Jails Task Force based its pretrial recommendations on:



- **Constitutional principles** of justice, including the fundamental right to liberty, the presumption of innocence, and the right to meaningful due process;
- **Research** that shows even a few days in jail pretrial can disrupt an individual’s employment, housing, and family relationships, and increase their likelihood of future offending; and
- **Data** showing that nearly half of people held in jail in Michigan are unconvicted and awaiting trial, a population that grew more than 300 percent between 1970 and 2016.

## Promoting Liberty and Public Safety

The Task Force’s recommended policies allow people arrested for low-level offenses to be released from jail quickly, without needing to pay money bail. Non-monetary conditions of release, including supportive services, are prioritized to address specific needs during the pretrial period. For serious offenses and people who pose a public safety or flight risk, money bail is still authorized, and people can be detained. However, anyone detained pretrial must be given a meaningful detention hearing to uphold their due process rights. This tiered system of pretrial release balances the constitutional rights of people who are still presumed innocent with the need to ensure public safety. It is designed to safely release people as soon as possible to prevent negative pretrial outcomes while still prioritizing the safety of victims and the public.

***“In our society, liberty is the norm, and detention prior to trial... is the carefully limited exception.”***

- Chief Justice William Rehnquist,  
*United States v. Salerno* (1987)

## Recommended Policies

- **More efficient court processes:**
  - Require that detained people be seen by a judge or magistrate within 48 hours of their arrest.
  - Ensure that cases go to trial within 18 months of detention, absent a waiver or delay by the defendant.
- **Bail reform:**
  - Replace interim bond for nonviolent misdemeanors with release on recognizance or unsecured bond.
  - Encourage courts to consider release on recognizance or non-monetary conditions, absent a public safety or flight risk, and require that they determine ability to pay before imposing cash bond.
- **Rights of those detained and released:**
  - Implement a due process hearing for people still detained 48 hours past their initial court appearance.
  - Limit electronic monitoring to violent and serious offenses.

*Recommended by the*  
**Michigan Joint Task Force on Jail and Pretrial Incarceration**