
**Pretrial Release Decisions in St. Louis County, MN, 2009-2014:
Examining the Effects of Policy Changes**

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Introduction

This report presents the results of data analyses conducted to examine the extent to which pretrial decision outcomes have changed over the previous six calendar years (2009-2014) in the wake of policy innovations, involving both judges and probation officers, introduced in the courtrooms of Minnesota's Sixth Judicial District (which includes St. Louis County).

It follows up on a research report based on felony case filing data in St. Louis County from 2009-2010, also sponsored by the American Bar Association, which was completed in August 2011. This preliminary report, based on analyses of data from the Minnesota Court Information System (MNCIS), found some disparities in pretrial release outcomes (i.e., bail setting and bail amount), both in terms of race and geography (i.e., differences among the county's three courts – Duluth, Hibbing and Virginia).

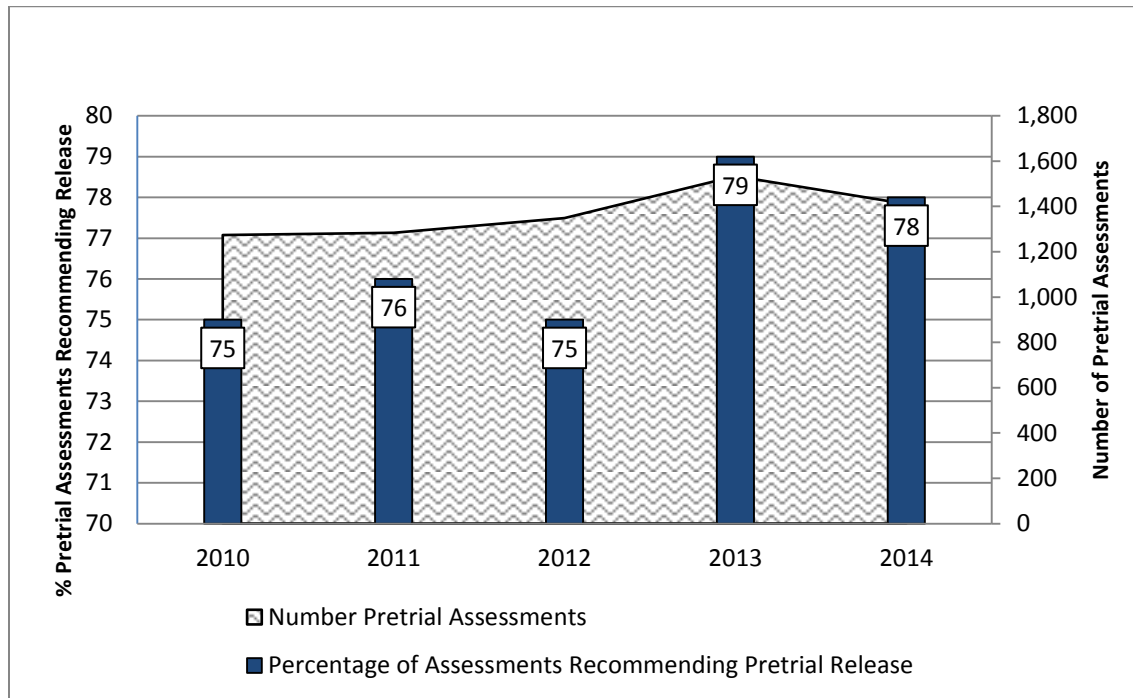
The key findings from the 2011 report include the following in regard to the relationship between defendants' self-reported race/ethnicity and judges' pretrial release decisions. First, among those defendants not on probation, bail setting was more likely (relative to release on recognizance, or ROR) for Minorities than for Whites. Whites were at least twice as likely as other racial categories to be released on their own recognizance. This relationship remained after accounting for offense severity level and number of felony charges. Second, among probationers, racial and ethnic Minorities were about a third as likely as whites to be detained but – as was the case with non-probationers – also less likely to be released on their own recognizance than whites. These relationships were, for the most part, replicated upon accounting for charge severity. Finally, in regard to the amount at which bail was set, overall, Whites' mean and median bail amounts tended to be markedly lower than Minorities'. Yet, upon accounting for severity of most serious charge, the relationship between race/ethnicity and bail amount was largely negated. For example, within categories of charge severity, there were relatively small differences between means, and none of them was statistically significant. Among defendants with multiple felony charges, Minorities' median bail amount was \$10,000 higher than Whites'.

Since the completion of the preliminary research in August 2011, prominent figures within the St. Louis County criminal justice community, including members of St. Louis County's Racial Justice Improvement Project (RJIP) Task Force, worked to implement the following, each of which – to a greater or lesser extent – could reasonably be expected to affect positive change on pretrial release outcomes in St. Louis County.

New Pretrial Evaluation Form. In May 2012, ARC implemented a new Pretrial Evaluation Form, for guidance in making decisions in respect to pretrial release. This form was modeled after a pretrial assessment form used in Hennepin County (Minneapolis). It was hailed as an improvement over the form that had been used by ARC in that the form it supplanted had included items that were not salient predictors of an individual appearing in court or committing another offense before his court appearance (i.e., *presumed* risk factors that had not been validated by research empirically linking them to risk). The new instrument produces a score that assists probation officers in making a pretrial release recommendation to the judge, who in turns decided under what conditions to release the client. This

form is completed for every client held in the jail, unless the client is “automatically rejected.”¹ Figure 1 shows that, in the two full calendar years subsequent to the implementation of this assessment instrument (2013 and 2014), the percentage of pretrial assessments recommended for pretrial release increased slightly.

Figure 1. Number of Pretrial Assessments & Percentage of Assessments Recommending Release, 2010-2014



Source: ARC research data

Training Session & Introduction of a Pretrial Release Considerations Form. Complementing the new pretrial assessment instrument was a one-day training for Sixth Judicial District (including St. Louis County) judges, attorneys, and ARC probation officers on pretrial decision-making, which took place on July 27, 2012. This training included discussions about the new pretrial assessment instrument; results of the preliminary phase of this research were also presented on this day.

Then in November 2012, a Pre-Trial Release Considerations Form was distributed to all judges in Minnesota’s Sixth Judicial District (including St. Louis County). It was presented to judges as hard copy (i.e., laminated paper) as well as electronically – to the desk tops of all judges’ courtroom computers. (See Appendix A for a copy of this instrument.) Both the training session and the advent of the Pretrial Release Considerations Form were done under the auspices of the Racial Justice Improvement Project.

¹ An automatic rejection can occur for any of the following reasons: 1) there is an active warrant or hold in St. Louis County or some other jurisdiction; (2) the client was previously assessed for the same case, and previously rejected, with no significant status changes; (3) the individual was on pretrial release and absconded, resulting in the issuance of a warrant.

Intensive Pretrial Release Program. On July 1, 2013, 15 months after implementing the new Pretrial Evaluation Form, ARC initiated a new Intensive Pretrial Release Program (IPTRP). This program targets individuals who otherwise would not have been released before their trial – a subset of those who were initially rejected for pretrial release based on the criteria in the new Pretrial Evaluation Form. Given the focus of this program, if it works as intended, it should have the effect of reducing the number of individuals who otherwise would have been detained pretrial. As part of this program, two additional probation officers were hired to closely supervise these higher risk offenders, using electronic monitoring services as needed. The program allows participants to continue their work or schooling, support themselves and their families and receive needed services in the community.

From the program's inception through calendar year 2014 (i.e., 18 months), 328 clients participated in it, including 169 from Duluth, and 159 from Hibbing and Virginia combined. Of the 141 participants in the program's first nine months, 52% were from the Duluth area, while 48% were residents of northern St. Louis County. In terms of race, 64% of participants were White, 21% were Black, and 15% were Native American. Four out of five participants (80%) were charged with felony offenses, with the balance facing gross misdemeanor or misdemeanor offenses.

An ARC report on the first nine months of the program (through March 2014) found that, of the 92 individuals who had completed IPTRP, 55 successfully completed the program² and were sentenced, 41 failed to comply with IPTRP conditions and were returned to jail, and three left the program after posting bond.

According to this same report, less than 10% of the defendants who successfully completed the program were sentenced to "non-credited" time in the St. Louis County Jail. The balance were evenly distributed among incarceration at the Northeast Regional Correctional Center, Sentence to Serve/community service work, and incarceration in jail or an equivalent. Most had their prison, jail or NERCC sentences "stayed," and were placed on probation for an equivalent amount of time. Four other individuals were released from IPTRP without any court sentence: two of these had their cases dismissed, one was sentenced to "time served on IPTRP" without any probation, and one individual's prosecution was deferred for a year, provided he committed no other "same or similar offenses."

An important goal of IPTRP is increasing access to community-based supportive services for its participants, who of course otherwise would not have access to them were they in jail. An analysis of an electronic data set, compiled by ARC research staff, containing information on the first 53 individuals to successfully complete the program revealed that significant proportions of program participants received various supportive services:

² Success was defined as completing sufficient conditions of pretrial release, not committing another offense while in the program, and appearing at court hearings.

- 17 participant (32.1%) received support in the realms of employment and/or education;
- 13 participants (24.5%) received community-based treatment for chemical dependency or mental health issues (e.g., intensive day treatment);
- 11 participants (20.8%) received “Rule 25” assessments.³

Objective of This Report and Data Sources Used

This report presents findings of quantitative data analyses designed to examine whether there were changes patterns in pretrial release outcomes in the wake of the advent of the new Pretrial Evaluation Form, the day-long training session and the dissemination to judges of the Pretrial Release Considerations Form, and the advent of the Intensive Pretrial Release Program. Like the preliminary report, it uses MNCIS data to examine patterns in pretrial release decisions in St. Louis County, this time for the years 2009-2014. During this span, there were 9,121 felony cases filed in St. Louis County. In the present study, MNCIS data are supplemented with information from the St. Louis County Jail, specifically:

- For the years 2009-2014, monthly jail population, broken down by race/ethnicity;
- For the years 2013-2014, monthly average population, broken down by legal status (e.g., under sentence [post-conviction], awaiting court [pretrial]).

This information is used to examine whether the implementation of the training and changes adopted since the first phase of RJIP research corresponded with: (1) changes in the proportion of the jail population that was being held pretrial relative to those housed there post-conviction; and (2) changes in the racial composition of those admitted to the St. Louis County Jail population.⁴

³ In Minnesota, when a person is seeking chemical dependency treatment and needs public funding to pay for the treatment, they get a chemical use assessment, referred to as a “Rule 25” assessment.

⁴ No one data source was available that contained information on *both* race/ethnicity and legal status. Thus, these two factors are examined separately.

Pretrial Release Outcomes

This section of the report provides an overview of analyses conducted on MNCIS data to examine pretrial release decision-making – including the decisions about whether to impose bail and the amount at which bail is set – for felony cases filed calendar years 2009 through 2014.⁵ These questions are addressed using results from analyses conducted with statistical software (the Statistical Package for the Social Sciences [SPSS]).

Regarding the pretrial release decision, a judge has two potential alternatives from which to choose. He can either set bail (a related decision here is the dollar amount at which to set bail), or release a person “on his own recognizance” – that is, release him with no bail required.⁶ The analyses presented in this section examine, in turn, the decision of whether to detain or set bail and – among those cases for which bail is the condition of release – the amount at which bail is set. However, data limitations preclude analyzing correlates of the likelihood of a defendant making bail or posting bond.⁷

Overview of Data Elements Used. These release decisions are considered in light of defendants’ race and ethnicity, the level of severity of the most serious charge that they are facing and whether they are facing more than one felony charge. The race variable consists of four categories: White, Black (including those who reported being Black and White), Indian (including Indian and White) and all other racial categories, including Asian, Native Hawaiian, and “Other,” including other multiracial combinations. The Hispanic variable simply indicates whether or not a defendant reported being Hispanic. Level of severity of most serious charge was created primarily by assigning, when feasible, a Minnesota Sentencing Guidelines (MSG) severity level code to each case in the sample; the resultant severity variable has four categories.⁸

⁵ These analyses are somewhat exploratory in nature, and limited in scope, in that they do not provide insight into the effect of many other potentially salient factors on judges’ pretrial release decisions. For example, none of the 13 factors that the court is instructed to consider in determining conditions of release (Minnesota Rules of Criminal Procedure, Rule 6.02, Subd. 2), such as family ties and length of residence in the community, are accounted for. For this reason, these analyses do not allow for drawing conclusions as to whether defendants’ race/ethnicity is *causally* related to pretrial release decisions.

⁶ For cases involving an individual who is on probation at the time of his new offense, the judge has a third option: to detain an individual until case disposition.

⁷ Because of limitations associated with MNCIS data, the information queried to identify cases in which a defendant was able to make bail or post bond is incomplete. Thus, this report does not examine this key question.

⁸ MSG offense severity codes range from 1 to 11, with 11 being the most severe (i.e., 2nd Degree Murder). Based largely on the frequency distribution of the offense severity codes, I collapsed this severity variable into four categories: (1) MSG categories 1 and 2, plus two offenses that are not ranked by MSG – check forgery and receiving stolen property; (2) MSG categories 3 and 4, plus the unranked categories escape from custody and sexual predatory offender offenses; (3) MSG categories 5-7, plus violations of orders for protection/no contact; and (4) MSG categories 8-11, inclusive of cases coded as “serious felonies” in the MNCIS data set. (All MSG category 10 and 11 cases receive the “Serious Felony” label in MNCIS. This category also includes charges, such as 1st Degree Murder, which are too severe to fall under MSG.)

Table 1. Frequency Distributions of Data Elements (N=9,121)

Element	Category	N (%)
Courthouse	Duluth	5,809 (63.7%)
	Hibbing	1,597 (17.5%)
	Virginia	1,715 (18.8%)
Defendant's Self-Reported Race	White	5,767 (67.8%)
	Black/Black & White	1,329 (15.6%)
	Indian / Indian & White	1,185 (13.9%)
	Other	225 (2.6%)
Defendant's Self-Reported Ethnicity	Hispanic	214 (2.3%)
	Non-Hispanic	8,907 (97.7%)
Charge Severity	1 (Least Severe)	2,697 (30.7%)
	2	3,108 (35.4%)
	3	1,606 (18.3%)
	4 (Most Severe)	1,366 (15.6%)
Two or More Felony Charges		3,349 (36.7%)
Defendant on Probation		5,998 (65.8%)
Condition of Release	Jail/Lockup	520 (5.7%)
	Bail Set	5,118 (56.1%)
	ROR	1,133 (12.4%)
	"No Conditions"	2,350 (25.8%)

Table 1 presents descriptive statistics for the entire population of cases, all felony cases filed in St. Louis County from 2009 through 2014. It shows that about two-thirds of cases originated in Duluth; a similar percentage involved White defendants. African Americans made up 15.6% of the sample, while Native Americans comprised 13.9%. All other racial categories combined made up 2.6% of the sample. Regarding ethnicity, only 2.3% reported being Hispanic. As for condition of release, 5.7% of the sample was detained in jail/lockup, while bail was set in 56.1% of cases, and 12.4% of defendants were released on their own recognizance.⁹ Finally, 36.7% of cases involved more than one felony charge, while about two thirds of cases (65.8%) involved an individual that was on probation.¹⁰ In terms of the amount at

⁹ Note the following important points regarding the condition variable: In the "raw" MNCIS data, in more than one out of five cases (21.8%), two or more conditions were coded. For these cases, for purposes of the information presented here, the least restrictive condition was given precedence. So, for example, cases coded as both "bail" and "ROR" are presented as "ROR" herein. Regarding the jail/lockup category, while those on probation make up the vast majority (403 of 520, or 77.5%) of cases with this condition, the balance of cases (22.5%) receiving this condition were not coded as being on probation. Regarding the "no conditions" category, the high percentage of cases in this category is a partial function of the fact that some defendants were not in custody; for 509 of the cases in this category, the complaint was coded as "summons" and for 118, the complaint was coded as "warrant" ("detention" is the other complaint category).

¹⁰ The percent of cases involving individuals on probation at the time of their case filing is markedly higher than what was estimated in the 2011 report (25.3%). The present research uses a "probation flag" variable, not available previously, that hopefully is a more accurate indicator of who is on probation. If this is indeed a valid indicator, then the number on probation clearly was undercounted in the previous research.

which bail was set, across the three courthouse sites, values ranged from \$100 to \$5,000,000, with a median value of \$20,000 and a mean of \$47,595.¹¹

Before & After Comparisons Using MNCIS Data

This section reports on analyses of MNCIS information designed to determine whether the aforementioned measures that were enacted after the previous phase of this research affected pretrial release decision outcomes. The decision was made to do “before and after” comparisons using two different dates as the before-after cut point. The first set of analyses in this section compares the pretrial decision outcomes in the 41 months (January 2009 through May 2012) prior to the widespread use of the new Pretrial Evaluation form used by ARC probation officers to the subsequent 31 months (June 2012 through December 2014) that comprise the observation period of this study. It can be asserted that the advent of this form, given the prevalence of its use, could be expected to have the largest effect on pretrial decision outcomes.

The second before-after comparison is made around the implementation of the Intensive Pretrial Release Program. In this case, the “before” period is made up of the 54 months through June 2013, and the “after” period consists of the 18 months from July 2013 through December 2014. IPTRP is of course the last of the measures to be implemented during the observation period of this study. For this reason, it seems appropriate to also use it as a cut point for “before and after” comparisons.

Pretrial Release Outcomes Before and After the Implementation of the Pretrial Evaluation Form. Table 2 presents the distribution of the three possible conditions – bail, ROR and jail/lockup – before and after the introduction of the new Pretrial Evaluation Form in May 2012. It shows that there were meaningful statistically significant differences in the relative use of these conditions between these two time periods.¹² Bail was used significantly more often, and ROR significantly less often, in the “after” period. ROR’s loss was essentially Bail’s gain. By comparison the percent of cases coded as Jail/Lockup was relatively static between the two periods; the 0.6% difference between the two was not statistically significant.

Table 2. Percent of Cases Receiving Each Condition, Before & After Introduction of the Pretrial Evaluation Form

Condition	Before (N=3,535)	After (N=3,236)
Bail***	71.1%	80.4%
ROR***	20.9%	12.2%
Jail/Lockup	8.0%	7.4%

*p < .05; **p < .01; ***p < .001

¹¹ The stark difference between the mean and median values, along with a high standard deviation [127,889], is indicative of a distribution that is highly positively skewed – pulled toward a handful of high outlying values (e.g., 16 cases in which bail was set at \$1 million or more). These statistics exclude one extremely high bail amount (\$13.75 million) which perhaps is due to a data coding error in MNCIS.

¹² “Statistically significant” findings are those that are unlikely to be due to chance. For example, the notation “p < .001” indicates that there is less than a one in 1,000 likelihood that a finding is due to chance. We can be more confident than we otherwise would be in findings that have been determined to be statistically significant.

Tables 3A-3C take the information presented in Table 2 and, for each of the three conditions, account for race/ethnicity (White relative to Minority), severity level (collapsed into two categories) and the number of felony charges associated with a case. In all of these comparisons, tests were conducted to examine whether there were statistically significant differences between the “before and after” percentages, as well as between Whites and Minorities within the same period of time (i.e., before or after). Examination of these latter differences can be used to inform whether any preexisting racial/ethnic-related disparities in pretrial release outcomes have been reduced in the wake of the introduction of the new Pretrial Evaluation Form.

Tables 3A-C. Percent of Cases Receiving Each Condition, by Race/Ethnicity, Severity & Number of Felony Charges, Before & After Introduction of the Pretrial Evaluation Form

A. Bail	Before		After	
	White (non-Hispanic)	Racial Minority &/or Hispanic	White (non-Hispanic)	Racial Minority &/or Hispanic
Overall	69.1	72.7[^]	80.2^{***}	80.6^{***}
Severity Levels 1 & 2	67.8	70.5	77.2 ^{***}	77.3 ^{**}
Severity Levels 3 & 4	70.1	76.5 [^]	86.8 ^{***}	85.4 ^{**}
1 Felony Charge	67.7	72.0	79.6 ^{***}	78.4 [*]
≥2 Felony Charges	71.5	73.8	81.2 ^{***}	84.4 ^{***}

B. ROR	Before		After	
	White (non-Hispanic)	Racial Minority &/or Hispanic	White (non-Hispanic)	Racial Minority &/or Hispanic
Overall	23.2	18.4[†]	12.4^{***}	10.8^{***}
Severity Levels 1 & 2	24.6	20.7 [^]	15.4 ^{***}	13.6 ^{**}
Severity Levels 3 & 4	21.6	14.7 [†]	5.8 ^{***}	6.2 ^{***}
1 Felony Charge	24.5	20.2 [^]	14.1 ^{***}	12.9 ^{**}
≥2 Felony Charges	20.8	15.5 [^]	9.8 ^{***}	7.0 ^{***}

C. Jail/Lockup	Before		After	
	White (non-Hispanic)	Racial Minority &/or Hispanic	White (non-Hispanic)	Racial Minority &/or Hispanic
Overall	7.7	8.9	7.3	8.6
Severity Levels 1 & 2	7.6	8.8	7.4	9.1
Severity Levels 3 & 4	8.3	8.7	7.4	8.3
1 Felony Charge	7.7	7.8	6.2	8.6
≥2 Felony Charges	7.7	10.7	8.9	8.6

Statistically **significant before/after difference** within racial/ethnic category: *p < .05; **p < .01; ***p < .001

Statistically **significant between-group difference** at the same time period: [^] < .05; [†]p<.01; [‡]p<.001

Given the “before and after” differences in the relative distribution of bail and ROR, presented in Table 2, it is not surprising that these stark differences remained upon accounting for race/ethnicity and the severity of the case. Tables 3A and 3B illustrate that every single before-after comparison of the distribution of bail and ROR cases is statistically significant. For example, Table 3A shows that, overall, cases involving Minorities received bail 72.7% of the time before the introduction of the new evaluation form, and 80.2% of the time after (p < .001). As another example, Table 3B illustrates that cases involving Whites receiving ROR declined starkly from before (23.2%) to after (12.4%) (p < .001).

Turning to the contrasts in percentages between the two racial/ethnic categories at the same points in time, although these contrasts are not quite as stark, there are several statistically significant differences. Table 3B shows that, regarding the “before” comparisons, both overall and across all of the different case factors, Whites were significantly more likely than Minorities to receive a ROR condition. For example, among cases involving two or more felony charges, Whites received the ROR condition 20.8% of the time, while Minorities received ROR 15.5% of the time ($p < .05$). Especially since ROR is a less restrictive condition than bail or jail, this disparity between Minorities and Whites is problematic. It is encouraging then that none of these differences in the likelihood of receiving ROR between the two racial/ethnic categories is statistically significant in the “after” period. Put another way, disparity between Whites’ and Minorities’ likelihood of receiving ROR dissipated in the period after the implementation of the new Pretrial Evaluation Form.

Table 3A shows that two of the five “before” comparisons between racial/ethnic categories revealed statistically significant differences in percentage receiving bail as a condition. Both overall, and in cases involving more severe cases, Minorities were more likely to receive a bail condition than were Whites ($p < .05$). As was the case in regard to ROR, neither of these differences was significant in the “after” period – the disparity dissipated.

Indeed, regarding differences in the relative distribution of conditions in the “after” columns, one can see that there are no statistically significant differences between the two racial/ethnic categories. While it is difficult to know exactly what to make of the increase in the use of bail relative to ROR between time periods, that the differences in pretrial outcomes between racial/ethnic categories in the “before” period were not apparent in the “after” period is a positive outcome.

Pretrial Release Outcomes Before and After the Advent of IPTRP. Table 4 presents the distribution of the three possible conditions – bail, ROR and jail/lockup – before and after the introduction of the Intensive Pretrial Release Program on July 1, 2013. It illustrates that there were statistically significant differences between time periods in the relative use of each of these three conditions. In a nutshell, comparing the “before” to the “after” period, bail ($p < .001$) and jail/lockup ($p < .05$) were used as conditions more often, and ROR ($p < .001$) was used less.

Table 4. Percent of Cases Receiving Each Condition, Before & After Introduction of the Intensive Pretrial Release Program

Condition	Before (N=4,878)	After (N=1,893)
Bail***	74.1	79.3
ROR***	18.7	11.6
Jail/Lockup*	7.1	9.0

* $p < .05$; ** $p < .01$; *** $p < .001$

Tables 5B and 5A show, in regard to before-after comparisons, that every difference in percentage of cases receiving ROR is statistically significant, and four of five differences in regard to the relative use of bail are also statistically significant. For example, in regard to ROR, the percent of Whites with one felony charge receiving this condition declined from 21.8% to 12.9% ($p < .001$). In regard to bail, the overall percent of Minorities receiving this condition increased from 74.1% to 80.4% ($p < .001$).

Regarding jail/lockup, Table 3C shows that cases involving Whites with two or more felony charges were significantly more likely to receive this condition in the “after” period (7.2% vs. 10.9%, $p < .05$).

Tables 5A-C. Percent of Cases Receiving Each Condition, by Race/Ethnicity, Severity & Number of Felony Charges, Before & After Introduction of the Intensive Pretrial Release Program

A. Bail	Before		After	
	White (non-Hispanic)	Racial Minority &/or Hispanic	White (non-Hispanic)	Racial Minority &/or Hispanic
Overall	73.1	74.1	79.6***	80.4**
Severity Levels 1 & 2	70.6	71.8	77.7***	77.1
Severity Levels 3 & 4	77.1	77.8	83.8**	86.0*
1 Felony Charge	71.4	72.9	79.7***	79.4*
≥2 Felony Charges	75.9	76.1	79.5	82.0

B. ROR	Before		After	
	White (non-Hispanic)	Racial Minority &/or Hispanic	White (non-Hispanic)	Racial Minority &/or Hispanic
Overall	20.0	17.5 [^]	11.7***	8.9***
Severity Levels 1 & 2	22.4	19.8	13.7***	11.8**
Severity Levels 3 & 4	15.8	13.9	6.7***	3.7***
1 Felony Charge	21.8	19.2	12.9***	11.3**
≥2 Felony Charges	16.9	14.6	9.6***	5.1*** [^]

C. Jail/Lockup	Before		After	
	White (non-Hispanic)	Racial Minority &/or Hispanic	White (non-Hispanic)	Racial Minority &/or Hispanic
Overall	6.9	8.4	8.7*	10.6
Severity Levels 1 & 2	6.9	8.3	8.5	11.1
Severity Levels 3 & 4	7.0	8.2	9.5	10.3
1 Felony Charge	6.7	7.8	7.4	9.3
≥2 Felony Charges	7.2	9.3	10.9*	12.8

Statistically significant before/after difference within racial/ethnic category: * $p < .05$; ** $p < .01$; *** $p < .001$

Statistically significant between-group difference at the same time period: [^] $p < .05$; [†] $p < .01$; [‡] $p < .001$

Regarding differences in percentages between the two racial/ethnic categories at the same points in time, there are just two statistically significant differences, both concerning ROR. Table 5B shows that, before the advent of IPTRP, cases involving Whites were significantly more likely to receive ROR (20.0%) than cases involving Minorities (17.5%, $p < .05$). The difference between the two groups shrunk, and was no longer statistically significant, in the “after” period. The other significant difference was observed in the “after” category, where cases involving Minorities with two or more felony charges were statistically less likely to receive ROR (5.1%) than the parallel category for Whites (9.6%, $p < .05$). This last difference is the only significant difference between the two racial and ethnic categories that occurred after IPTRP. Given that ROR is of course the least restrictive of these three conditions, for this single particular category (i.e., cases involving multiple felony charges), Whites fare better. However, it is important to reiterate that the use of ROR for cases involving *both* Whites and Minorities declined significantly from “before” to “after” ($p < .001$). Moreover, given the context in which this result appears (i.e., the somewhat puzzling decline in the use of ROR relative to the use of jail), it would be imprudent to infer too much about the meaning or cause of this single significant finding.

Mean and Median Bail Amounts Before and After the Implementation of the Pretrial Evaluation Form.

Among the cases for which a condition was coded, bail was the most often used condition – assigned in 56.1% of cases. Among those cases for which bail was set, analyses were conducted to examine the relationship between race/ethnicity and bail amount.¹³

The following two tables present the mean and median values at which bail was set, both before and after the introduction of the new Pretrial Evaluation Form in May 2012. Note that, despite using a modified bail amount variable that neutralizes the effect of the most extreme outliers in this sample, the mean bail amounts (calculated based on all of the cases in the sample) are markedly higher than the median – or the value of the middle case in the distribution – values. Table 6 shows that the mean bail value decreased about \$1,000 between the “before” and “after” periods, a difference that is not statistically significant. The median values for the two periods were identical.

Table 6. Mean & Median Bail Amounts, Before & After Introduction of the Pretrial Evaluation Form

	Before (N=2,337)		After (N=2,489)	
	Mean	Median	Mean	Median
Bail, Capping Top 1% of Outliers	43,413	20,000	42,397	20,000

In dollars, rounded up to the whole dollar

Table 7 considers the information presented in Table 6 in light of race/ethnicity (White relative to Minority), severity level (collapsed into two categories) and the number of felony charges associated with a case. For each of the comparisons of means, tests were conducted to examine whether there were statistically significant “before and after” differences, as well as the means of Whites and Minorities within the same period of time (i.e., before or after).¹⁴

¹³ As alluded to earlier in this report, bail is a highly positively skewed variable. That is, a relatively small number of cases with very high values increase the statistical average (the mean) of all its cases. In attempt to mitigate the effect of these outlying values (including 17 cases for which bail was set at or in excess of \$1 million), the analyses presented in this section use a modified version of the bail amount variable. Specifically, this variable addresses these outlying cases by “capping” the maximum bail amount at \$400,000. Put another way, the one percent of cases with bail amounts of greater than \$400,000 were recoded to \$400,000 for purposes of these analyses. This solution is not ideal; even using this new bail variable, there is still a great deal of variation in bail amounts, as evidenced by extremely high standard deviations associated with the means that are reported. However, on balance, it is apparent that using this modified bail amount variable produced findings that are more valid “on their face,” than those produced using the “raw” bail amount variable. Interested readers can review tables presenting the results of analyses conducted with the “raw” jail amount variable, paralleling Tables 6-9, in Appendix B. Upon reviewing these tables, one will note that while the mean values they report are sometimes very different from those in Tables 6-9, the median values between the two sets of tables are remarkably similar.

¹⁴ Note that statistical tests were conducted on differences in *means* only. It is not feasible to do statistical tests on differences between medians.

Table 7. Mean & Median Bail Amounts, by Race/Ethnicity, Severity & Number of Felony Charges, Before & After Introduction of the Pretrial Evaluation Form

Bail, Capping Top 1% of Outliers at \$400,000	Before				After			
	Mean		Median		Mean		Median	
	White (non-Hispanic)	Racial Minority &/or Hispanic	White (non-Hispanic)	Racial Minority &/or Hispanic	White (non-Hispanic)	Racial Minority &/or Hispanic	White (non-Hispanic)	Racial Minority &/or Hispanic
Overall	42,269	44,841	20,000	20,000	42,624	42,022	20,000	20,000
Severity Levels 1 & 2	39,544	42,507	20,000	20,000	38,236	44,885	20,000	20,000
Severity Levels 3 & 4	50,329	48,416	22,500	25,000	52,098	38,975 [^]	20,000	20,000
1 Felony Charge	42,871	42,543	20,000	20,000	41,634	43,731	20,000	20,000
≥2 Felony Charges	41,204	48,531	20,000	25,000	44,124	39,281	20,000	22,500

In dollars, rounded up to the whole dollar

Statistically **significant before/after difference in means** within racial/ethnic category: *p < .05; **p < .01; ***p < .001

Statistically **significant between-group difference in means** at the same time period: [^] < .05; †p < .01; ‡p < .001

Table 7 shows that there are no statistically significant before/after differences in means. There is, however, one statistically significant difference in means between the two racial/ethnic categories. In those cases involving a more serious charge, in the “after” period, the mean bail amount for cases involving Minorities (\$38,975) is significantly less than the mean for cases involving Whites (\$52,098, p < .05).¹⁵

Given the caveats associated with using the mean value in situations such as this one where a distribution is highly skewed, using the median – or middle value in a distribution of cases – arguably is preferable, in that it is more informative. In regard to differences in medians between the race/ethnicity categories, Table 7 shows that among the “before” comparisons of more severe cases and cases involving multiple charges, Minorities had higher median bail amounts (\$22,500 vs. \$22,000 and \$25,000 vs. \$20,000, respectively) than Whites. Looking in the “after” columns, one can see that the difference in median values for the most severe cases disappeared (i.e., both “after” median values were \$20,000), and the difference in medians for cases involving multiple charges was halved (from a \$5,000 to \$2,500). This result is another instance of dissipating disparity between Whites and Minorities in the wake of the introduction of the new Pretrial Evaluation Form.

¹⁵ Although there are some seemingly large differences between several of the means, few of these differences are statistically significant primarily because statistical significance is more difficult to achieve when dealing with distributions with high standard deviations, such as these.

Mean and Median Bail Amounts Before and After the Advent of IPTRP. Table 8 shows that the mean bail value increased about \$600 between the “before” and “after” periods, a difference that is not statistically significant. The median values for the two periods were identical.

Table 8. Mean & Median Bail Amounts, Before & After Introduction of the Intensive Pretrial Release Program

	Before (N = 3,396)		After (N = 1,430)	
	Mean	Median	Mean	Median
Bail, Capping Top 1% of Outliers	42,710	20,000	43,312	20,000

In dollars, rounded up to the whole dollar

Table 9 considers the information presented in Table 8 in light of race/ethnicity (White relative to Minority), severity level (collapsed into two categories) and the number of felony charges associated with a case.

Table 9. Mean & Median Bail Amounts, by Race/Ethnicity, Severity & Number of Felony Charges, Before & After Introduction of the Intensive Pretrial Release Program

Bail, Capping Top 1% of Outliers at \$400,000	Before				After			
	Mean		Median		Mean		Median	
	White (non-Hispanic)	Racial Minority &/or Hispanic	White (non-Hispanic)	Racial Minority &/or Hispanic	White (non-Hispanic)	Racial Minority &/or Hispanic	White (non-Hispanic)	Racial Minority &/or Hispanic
Overall	42055	44005	20000	20000	43268	43043	20000	20000
Severity Levels 1 & 2	38855	42,626	20,000	20,000	38582	46199	20,000	20,000
Severity Levels 3 & 4	49168	46,806	20,000	25,000	55916	38,810 [^]	20,000	20,000
1 Felony Charge	41,631	41,888	20,000	20,000	43,097	47,242	20,000	20,000
≥2 Felony Charges	42,730	47,467	20,000	25,000	45,550	36,761	20,000	20,000

In dollars, rounded up to the whole dollar.

Statistically **significant before/after difference in means** within racial/ethnic category: *p < .05; **p < .01; ***p < .001

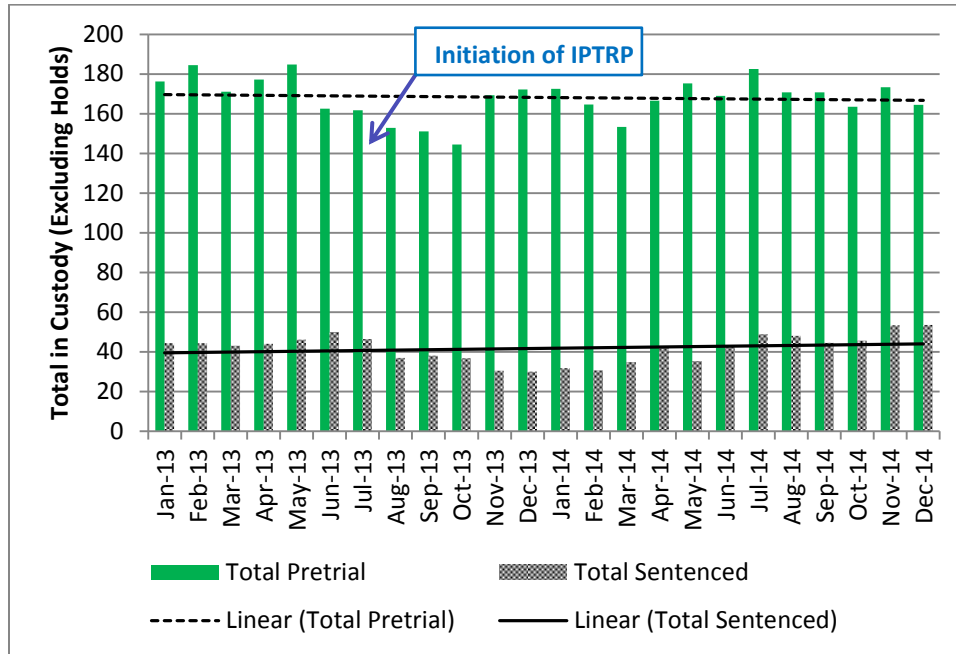
Statistically **significant between-group difference in means** at the same time period: [^] < .05; †p < .01; ‡p < .001

It shows that there are no statistically significant differences in mean bail amounts, either before and after within the same racial/ethnic category or between the two groups within the same time period. There is, however, one difference in median values, which is noteworthy in that it demonstrates decreased disparity in bail amounts after the introduction of IPTRP. In the “before” group, for cases involving two or more felony charges, Whites’ median bail amount was \$5,000 less than Minorities’ (\$20,000 vs. \$25,000). By comparison, the groups’ median values were equal (\$20,000) in the “after” period.

Analysis of Data from the St. Louis County Jail

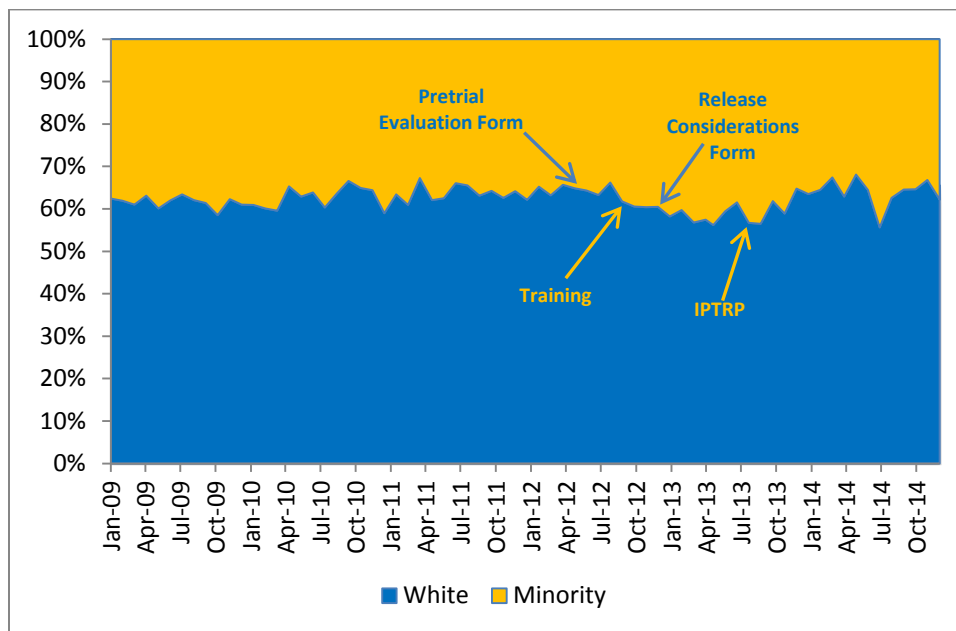
This section of the report complements the analyses of court data on pretrial decision outcomes with information about patterns and trends in jail population data. It is designed to examine whether the implementation of the measures discussed previously correspond to changes in the characteristics of who is in custody at the St. Louis County Jail. Because no single available data source considered both legal status (e.g., pretrial vs. post-conviction) and race/ethnicity of those jailed, each of these factors are considered separately.

Figure 2. Average Monthly Population, St. Louis County Jail, by Legal Status, 2013-2014



In regard to the former, Figure 2 shows the average number of individuals in custody by month, with separate bars for the number whose status is pretrial and for the number who have been convicted. The two years for which this information was available, 2013 and 2014, include the advent of IPTRP in July 2013. In the first four months of IPTRP’s existence (through October 2013), there is a downward trend in the number of those being held in custody before their trials. However, in subsequent months, this trend clearly does not continue. Linear trend lines for both status categories are both essentially flat, indicating that there are no trends to speak of in this two-year observation period.

Figure 3. Racial/Ethnic Composition of St. Louis County Jail Population, by Month, 2009-2014



Similarly, Figure 3 shows no discernible pattern in changes in the racial/ethnic composition of the St. Louis County Jail’s inmate population across time.¹⁶ Across this 72-month span, the percent for each respective racial category (White and Minority) was within 12.5 points. The average percentages across this six-year span were 62.4% White and 37.6% Minority. To highlight the notion that no trend in these data is readily evident, one need only observe that the nadir of percent of the population that was Minority (31.9%) in April 2014 occurred just two months before its peak (44.4%) in June 2014. None of the four measures highlighted earlier readily seems to be associated with trends in these data.

Summary & Conclusions

This report presented findings of quantitative data analyses examining whether there were changes patterns in pretrial release outcomes for felony cases filed in St. Louis County from 2009-2014 in the wake of several new measures over this time span:

- the implementation of the new Pretrial Evaluation Form;
- a day-long training session and the dissemination to judges of the Pretrial Release Considerations Form; and
- the advent of the Intensive Pretrial Release Program.

¹⁶ These data do not represent a monthly average of the Jail’s inmate population, but instead are based on a one-day census of its population of inmates, which is conducted on a monthly basis. These data do not account for inmates who are not housed in the Duluth, Hibbing or Virginia facilities but who are nonetheless under County custody; roughly 25% of inmates who are under St. Louis County custody are “housed out” (e.g., to facilities in neighboring jurisdictions).

This report used court system (MNCIS) data to examine patterns in pretrial release decisions in the 9,121 felony cases filed St. Louis County over this six-year span. MNCIS data were supplemented with information from the St. Louis County Jail, to examine whether the implementation of these measures corresponded with: (1) changes in the proportion of the jail population that was being held pretrial relative to those housed there post-conviction; and (2) changes in the racial composition of those admitted to the St. Louis County Jail population.

Key Findings Based on MNCIS Data. In regard to changes in the distribution of the use of three possible release conditions – bail, ROR and jail/lockup:

- In the wake of both the introduction of the Pretrial Evaluation Form and the implementation of IPTRP, for reasons that are not entirely clear, the use of bail increased, largely at the expense of the percentage of cases getting ROR, which decreased. These trends tended to hold upon controlling for key case characteristics (i.e., race/ethnicity, severity and number of charges). By comparison, the use of jail/lockup was relatively static.

The following results demonstrate that racial/ethnic disparity in pretrial release outcomes decreased:

- Before the introduction of the Pretrial Evaluation Form, Minorities tended to be more likely than Whites to receive bail, and were consistently less likely to receive the less-restrictive ROR condition. After the Pretrial Evaluation Form was introduced, differences between the two groups were no longer statistically significant. This finding is clearly indicative of a reduction in disparity.
- Before the advent of IPTRP, Whites were significantly more likely than Minorities to receive ROR. This difference was no longer significant in the observation period after IPTRP's introduction.
- Regarding comparisons of average bail amounts, for reasons discussed herein, the most salient findings are in regard to differences in medians (the middle value in a distribution) rather than means (the statistical average of a distribution's values). In terms of important differences between medians:
 - Whereas before the introduction of the Pretrial Evaluation Form, within cases dealing with a more severe charge, the median bail amount for Minorities was \$2,500 more than Whites' (\$25,000 vs. \$22,500). After the form was introduced, the median bail amount for more severe cases was identical (\$20,000).
 - Prior to the advent of IPTRP, for cases involving more severe or multiple charges, Minorities faced higher bail amounts than Whites (for both factors, \$25,000 vs. \$20,000). Subsequent to the implementation of IPTRP, these amounts were equal (\$20,000).

Key Findings Based on Data from the St. Louis County Jail. This study analyzed two data sets – monthly jail population, broken down by race/ethnicity (2009-2014) and monthly average population,

broken down by legal status (e.g., under sentence vs. awaiting court) (2013-2014). These analyses did not reveal any clear trends or patterns, related to any of the four measures highlighted herein or otherwise.

Regarding the (Potential) Effects of IPTRP. Based on available preliminary information, IPTRP appears to be a promising program. Given the negative circumstances that many of those caught up in the criminal justice system are in (e.g., facing unemployment, struggling with substance abuse), there is good reason to believe that providing them with supportive services can help to change these circumstances. Therefore, there is good reason to advocate for the creation and expansion of programs – whether at the pretrial or post-sentencing phase – that increase access to services for this population.

That said, the number of participants in this program through its first 18 months (328, approximately 80% of whom are facing felony charges) was small in comparison to the 2,408 felony cases that were filed in St. Louis County over this same period. If IPTRP were to expand a great deal, there is the potential that its effects could be detected by analyzing court data on pretrial release outcomes and/or jail census data. However, for the observation period of this study, using the data sources that were available and given the limited scope of this intervention, it is not surprising that this research failed to produce such evidence.

A Final Note on the Limitations of This Study

Lack of more definitive findings probably is at least a partial function of significant limitations to the data used to arrive at these results, as some of the footnotes herein speak to. Regarding the release condition variable extracted from MNCIS – one of the key outcome measures of this study: Of the 5,361 cases in the data set that were coded as being detained pretrial, 1,502 (28.0%) have no specified condition (i.e., bail, ROR, jail/lockup); why every one of these “detained” cases would not also have a coded condition of release is a mystery. Another significant limitation is the apparent lack in MNCIS of a reliable indicator of whether bail was made in a given case.

The primary purpose of MNCIS is for court scheduling, not research. When considered in this light, its limitations as a resource for research on court-related policies are unsurprising. This report documents several of the positive changes that have been made in regard to pretrial release decision-making that have occurred since the initial phase of the American Bar Association-sponsored Racial Justice Improvement Project. Results of this study are highlighted by several positive outcomes. However, it is entirely possible that other positive effects stemming from these changes simply were not detected in this research.

Appendix A. Pre-Trial Release Considerations Form

If there is a Pre-Trial Release study on file for this Defendant for this charge, please proceed with this checklist ONLY if there is a *material* change in circumstance that would warrant another report.

If a Pre-Trial Release study has *NOT* already been completed:

- Does the Defendant have any holds from the Minnesota Department of Corrections or other jurisdictions?
- Is the Defendant facing murder or attempted murder charges?

If YES to *either*, a *Pre-Trial Release study is NOT recommended.*

- If ultimately found guilty, do the *Minnesota Sentencing Guidelines* call for a presumptive stay of execution or imposition of sentence?
- Does the Defendant have a criminal history score of zero, **OR** does the court have the Defendant's most recent *Minnesota Sentencing Guidelines* worksheet score?

If YES to *both*, and the Defendant is *NOT Released on his/her Own Recognizance*, a *Pre-Trial Release study should be ordered.*

- Was the Defendant granted pre-trial release or released on her/his own recognizance?

If NO, the court should *state its reasons* either *on the record*, or *in a subsequent order.*



The Racial Justice Improvement Project

<http://racialjusticeproject.weebly.com/>

Conditions of Release: If the Court determines that pretrial release is appropriate, please consider the following factors under *Minnesota Rules of Criminal Procedure, Rule 6.02, Subd. 2*, in determining conditions of release:

- (a) the nature and circumstances of the offense charged;
- (b) the weight of the evidence;
- (c) family ties;
- (d) employment;
- (e) financial resources;
- (f) character and mental condition;
- (g) length of residence in the community;
- (h) criminal convictions;
- (i) prior history of appearing in court;
- (j) prior flight to avoid prosecution;
- (k) the victim's safety;
- (l) any other person's safety;
- (m) the community's safety.

This checklist is provided to you by the
St. Louis County Racial Justice Improvement Project Task Force:

Kay Arola, *Executive Director, Arrowhead Regional Corrections*

Honorable John DeSanto, *Judge, Sixth Judicial District*

Donna Ennis, *Community Member*

Fred Friedman, *Chief Public Defender, Sixth Judicial District*

Wally Kostich, *Chief Probation Officer, Arrowhead Regional Corrections*

Mark Rubin, *St. Louis County Attorney*

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For more information on the work of the Task Force or the ABA Racial Justice Improvement Project please visit our website: <http://racialjusticeproject.weebly.com/>

Special thanks to Salma S. Safiedine, RJIP Project Director from the American Bar Association, and American University Washington College of Law Professor Cynthia Jones, former RJIP Project Director.

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The Racial Justice Improvement Project

Appendix B. Bail Tables Using “Raw” Bail Amount Data

Table A1. Mean & Median Bail Amounts, Before & After Introduction of the Pretrial Evaluation Form

	Before (N=2,337)		After (N=2,489)	
	Mean	Median	Mean	Median
Bail	45,527	20,000	49,536	20,000

In dollars, rounded up to the whole dollar

Table A2. Mean & Median Bail Amounts, by Race/Ethnicity, Severity & Number of Felony Charges, Before & After Introduction the of Pretrial Evaluation Form

Bail	Before				After			
	Mean		Median		Mean		Median	
	White (non-Hispanic)	Racial Minority &/or Hispanic	White (non-Hispanic)	Racial Minority &/or Hispanic	White (non-Hispanic)	Racial Minority &/or Hispanic	White (non-Hispanic)	Racial Minority &/or Hispanic
Overall	42,582	47,978	20,000	20,000	51,609	44,434	20,000	20,000
Severity Levels 1 & 2	39,685	45,559	20,000	20,000	39,580	46,409	20,000	20,000
Severity Levels 3 & 4	51,069	51,899	22,500	25,000	78,180	43,077	20,000	20,000
1 Felony Charge	43,325	47,796	20,000	20,000	52,739	47,044	20,000	20,000
≥2 Felony Charges	41,269	51,489	20,000	25,000	49,898	40,247	20,000	25,000

In dollars, rounded up to the whole dollar

Table A3. Mean & Median Bail Amounts, Before & After Introduction of the Intensive Pretrial Release Program

	Before (N = 3,396)		After (N = 1,430)	
	Mean	Median	Mean	Median
Bail	44,596	20,000	54,718	20,000

In dollars, rounded up to the whole dollar

Table A4. Mean & Median Bail Amounts, by Race/Ethnicity, Severity & Number of Felony Charges, Before & After Introduction of the Intensive Pretrial Release Program

Bail	Before				After			
	Mean		Median		Mean		Median	
	White (non-Hispanic)	Racial Minority &/or Hispanic	White (non-Hispanic)	Racial Minority &/or Hispanic	White (non-Hispanic)	Racial Minority &/or Hispanic	White (non-Hispanic)	Racial Minority &/or Hispanic
Overall	42,629	47,032	20,000	20,000	57,830	45,323	20,000	20,000
Severity Levels 1 & 2	39,110	45,015	20,000	20,000	40,505	48,817	20,000	20,000
Severity Levels 3 & 4	50,501	50,912	20,000	25,000	101,871	40,628	20,000	20,000
1 Felony Charge	41,968	45,307	20,000	20,000	61,283	49,960	20,000	20,000
≥2 Felony Charges	43,682	49,859	20,000	25,000	52,142	38,387	20,000	20,000

In dollars, rounded up to the whole dollar