

OBSCURING

THE TRUTH:

How Misinformation is Skewing the
Conversation about Pretrial Justice
Reforms in Illinois

October 2022

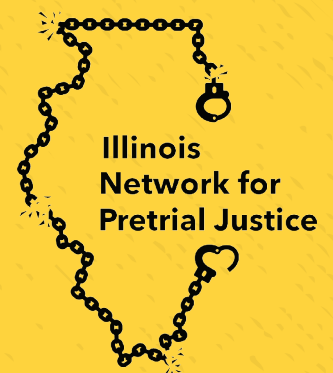


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Pretrial Fairness Act Day of Action in Chicago on September 26, 2020

INTRODUCTION

In February 2021, Illinois adopted the SAFE-T Act ([Public Act 101-0652](#)), the Illinois Legislative Black Caucus' landmark criminal justice, police accountability, and violence reduction omnibus bill. It was a response to the police murder of George Floyd and too many others, which highlighted for the country our history of pervasive systemic racism, mass incarceration, and institutional violence—and the overdue need for policy change. In January 2023, a key provision of the SAFE-T Act will end the use of money bail in Illinois. Upon its implementation, the [Pretrial Fairness Act](#) will eliminate the widespread practice of wealth-based pretrial incarceration that disproportionately harms Black, Brown, and low-income Illinoisans.

The nationwide 2020 protests occurred [even in small towns across Illinois](#) and emphasized that the state is ready for a new vision of public safety that includes a commitment to racial and economic justice. The Pretrial Fairness Act reflects that shift; it is the result of years of work by community members, advocates, legislators, national experts, and institutional stakeholders. Developed through hours of public hearings, testimony, extensive negotiations, and community-building, Illinois will be the first state in the country to prioritize public safety over wealth by ensuring that being low-income is not the sole factor in whether someone is jailed while awaiting trial. Automatic wealth-based detention disrupts and destabilizes entire communities: each accused person has family, employment, and neighbors that are impacted by their detention. The Pretrial Fairness Act prioritizes true public safety by removing access to money as a factor in release decisions and focusing the court's decision-making on safety instead. It's for this reason that crime survivors and advocates against domestic and sexual violence [support the Pretrial Fairness Act](#).

Nevertheless, from the moment the bill passed in January 2021, conservatives and law enforcement began spreading misinformation to undermine its historic policy changes. This tactic is part of a larger national trend in which opponents of criminal legal system reforms leverage the media to amplify misinformation to scare and confuse the public about reforms that correct harms experienced by people of color and other marginalized communities. By closely examining the types of misinformation and their sources, we hope to help journalists

and the public better understand how perception of reforms is being manipulated to support regressive policies and maintain inequitable and racially discriminatory systems.

Misinformation can have disastrous consequences for communities. This was put on full display in New York state, where legislators passed a law in 2019 mandating pretrial release without money bail for people charged with almost all misdemeanors and nonviolent felonies. Within four months of the law taking effect, it was significantly rolled back. [A report by FWD.US](#) details how skewed reporting and the amplification of misinformation from law enforcement shifted public opinion. Essentially, law enforcement blamed bond reform for individualized instances of crime without evidence, and their arguments were amplified in the media without proper fact-checking. As a result, the New York legislature gutted the state's bail reform measures in March 2020, making more cases and situations eligible again for money bail and pretrial jailing. These changes [led to an increase in pretrial incarceration rates](#) during the COVID-19 pandemic and have not reduced the crime they were meant to address.

Unintentional amplification of misinformation is facilitated in part by the fact that newsrooms across the United States are shrinking. Newsroom employment [decreased](#) by more than 25% between 2008 and 2020—a loss of nearly 30,000 jobs—and newspapers alone saw a 57% decrease during this time, while TV newsrooms shrunk by 26%. This often leaves newsrooms without capacity to meaningfully investigate issues or fact-check claims by public officials and law enforcement. With few resources and a daily need to fill print space and airwaves, newsrooms are left vulnerable to law enforcement communications teams that supply a constant source of plug-and-play crime stories. Questioning the authenticity of those stories has the potential to cut newsrooms off from tips on breaking stories or exclusives, making generating content even more difficult. Nevertheless, independent investigation of these tips is necessary to ensure news coverage is well-rounded, verified, and not merely representative of police talking points.

“The people must know before they can act, and there is no educator to compare with the press.”

- Ida B. Wells

The coalescence of these factors has made it extremely difficult for communities negatively impacted by policies to successfully advocate for and implement reforms that alleviate systemic oppression. The situation has also dramatically increased the effort needed to accurately report on criminal legal system policies and reforms. By detailing how misinformation shaped the public debate of pretrial justice reforms in Cook County, we hope to arm journalists with the resources needed to cover the statewide reforms included in the Pretrial Fairness Act.

By fact-checking claims made by public officials and law enforcement and doing detailed analyses of policy changes, the press has the opportunity to help the public better navigate debates around issues impacting our communities. In recent years, this has been put on full display in [the media's coverage of former President Trump's lies](#)—especially those regarding the 2020 Presidential election outcome. Instead of simply amplifying his narrative that “the election was stolen,” journalists typically will not share those claims without noting that there is no factual basis for them. It is an [active and ongoing debate](#) on exactly how reporters and news outlets can best avoid complicity in spreading misinformation and outright lies in their own coverage.

A healthy press is fundamental to a healthy democracy. As activist, journalist, and researcher Ida B. Wells once said, “the people must know before they can act, and there is no educator to compare with the press.” How the press covers a particular issue can—and often does—impact policymaking. News outlets do not simply share the news, they shape our understanding of the world we live in.

THE HISTORY OF PRETRIAL JUSTICE REFORMS IN COOK COUNTY

In 2017, Cook County Chief Judge Timothy Evans issued [General Order 18.8A](#) (“Order”), which instructed judges to set money bonds only in amounts that the accused person could afford to pay—and thus to [follow existing state law to this effect](#). The Order was meant to address concerns about wealth-based jailing raised by community members and a [class action lawsuit](#) that alleged the Cook County Courts were violating the constitution by setting unaffordable money bonds. Although its full potential was [never fully realized](#), the Order did lead to a decrease in the number of people incarcerated in Cook County Jail of [more than 2,000 people on any given day and more than 10,000 people per year](#). Most notably, this significant reduction in the number of people incarcerated pretrial occurred without any increase in the rates of people being rearrested or missing court while awaiting trial.



The Coalition to End Money Bond rallies outside the Leighton Criminal Courthouse on September 18, 2017, the day General Order 18.8A went into effect.”

The impact of the Order has been the subject of two separate academic studies conducted by [Loyola University Chicago](#) and the [JFA Institute](#). Both studies found that there was no increase in the percentage of people who missed court or were rearrested while awaiting trial. Notably, researchers found:

- » **There was an overall decrease in the percentage of people rearrested while on pretrial release compared to before General Order 18.8A, including a decrease in the percentage of people rearrested on charges involving allegations of violence. The JFA Institute’s [analysis](#) also noted a decrease in reported violent crime during the first year of the Order’s implementation.**
- » **There was no significant increase in crime or missed court dates.**
- » **The Loyola researchers [found](#) that the percentage of people released after General Order 18.8A who had a new criminal case of any kind filed while on pretrial release decreased from 17.5% to 17.1%.**
- » **“General Order 18.8A had no effect on the odds of new violent criminal activity of defendants released pretrial,” according to the Loyola researchers. Only 3% of people released after General Order 18.8A had a new criminal case involving allegations of violence filed—the same percentage as before General Order 18.8A**

Similar findings were produced by the Circuit Court of Cook County in 2019. The court [released data](#) showing that, of the more than 30,000 people released pretrial between October 2017 and March 2019, only 70 people were charged with a new gun-related violent crime. They also found that 99.8% of people released while awaiting trial on felony charges were not rearrested in relation to new gun-related violent crime while their case was pending.

Despite this reliable evidence of the effectiveness of pretrial reforms in Cook County, these reforms have been continually blamed for violence and otherwise maligned by public officials in the media.

MISINFORMATION IN THE MEDIA

***The Primacy Effect:** The tendency for facts, impressions, or items that are presented first to be better learned or remembered than material presented later in the sequence. This effect can occur in both formal learning situations and social contexts.*

People most often remember the first thing they hear about an issue or situation. This makes fact-checking extremely important. If false information is disseminated, it is unlikely that its correction will impact the person receiving it as much as the initial message did. In this section, we'll examine how bad actors, misinformation, and irresponsible reporting has distorted the public debate surrounding pretrial justice reforms in Illinois.

Lies from Public Officials

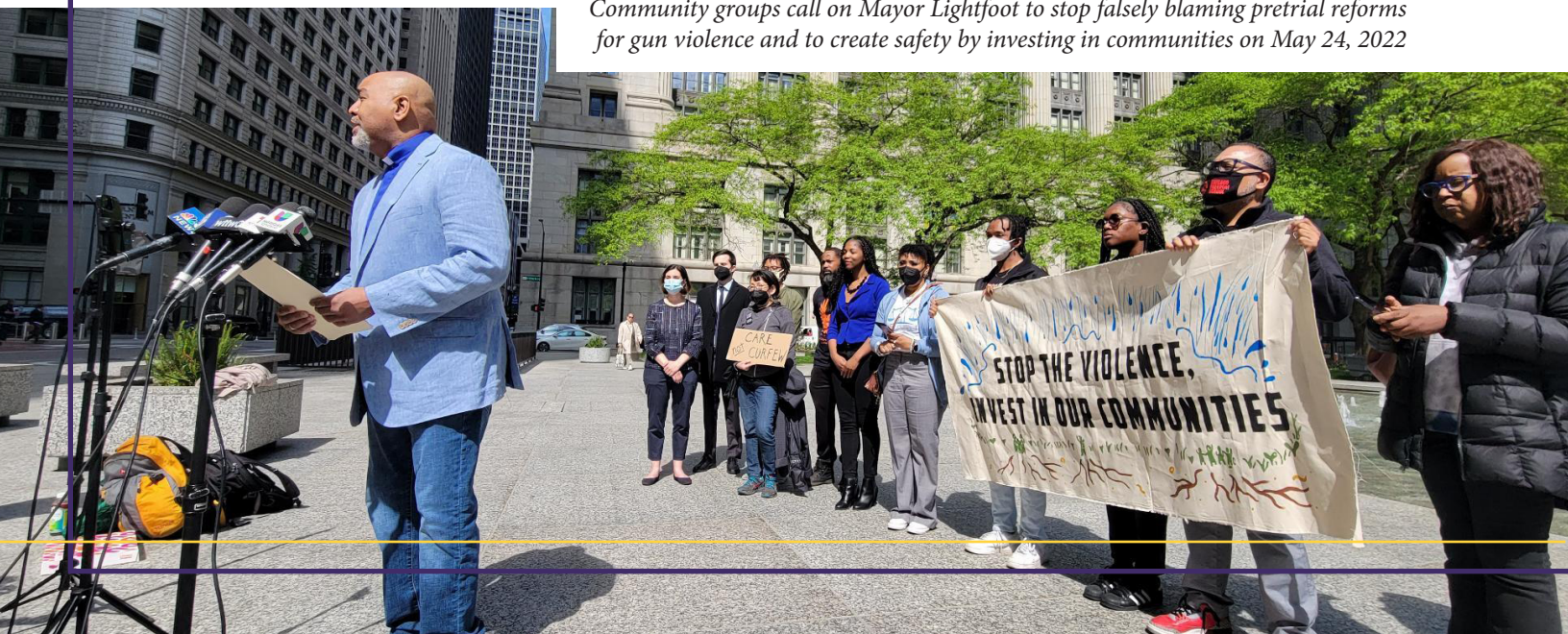
Public officials have been some of the main sources of misinformation regarding pretrial justice reforms. Due to the fast pace of the news cycle and the responsibility of the press to share the statements of public officials, their messages are often amplified before sufficient fact-checking has taken place. This allows public officials to unduly shape the public debate around any given issue. As the following examples make clear, more resources need to be invested into fact-checking elected officials in real time.

The City of Chicago

Chicago Mayor Lori Lightfoot and the Chicago Police Department (CPD), under the direction of Superintendents Eddie Johnson and David Brown, have been two of the main propagators of misinformation about pretrial justice reform in Cook County.

Although she campaigned in support of criminal legal reform, Mayor Lightfoot began to work with the Chicago Police Department to attack General Order 18.8A within her first few months in office. Her attacks on pretrial justice reforms [have been seen by many](#) as an attempt to deflect from her administration's failure to

Community groups call on Mayor Lightfoot to stop falsely blaming pretrial reforms for gun violence and to create safety by investing in communities on May 24, 2022



meaningfully address the root causes of gun violence in the city. Although the city has been plagued by gun violence for decades, City Hall and the Police Department began a campaign to convince the public that the city's violence was somehow the result of recent reforms to the pretrial system. Despite the wealth of data documenting the success of Cook County's pretrial justice reforms (as detailed in the preceding section of this report), the city led the charge to roll back these efforts by relying on anecdotal information—some of which was outright false.

In July 2019, Mayor Lightfoot and former CPD Superintendent Eddie Johnson were found to be [sharing false information](#) about the criminal histories and pretrial release statuses of two people being prosecuted by the Cook County State's Attorney's Office in an attempt to blame gun violence on increased pretrial release under reforms. The Mayor claimed both individuals released had extensive criminal histories, but a simple records search showed that one of them had no record at all. The Mayor further lamented that they were "back on the streets" while awaiting trial, despite the reality that one person remained in jail and the other was incarcerated in their home on electronic monitoring. Mayor Lightfoot leaned on these falsehoods to generate unfounded fear among the public about people being released pretrial, and her false claims were elevated by media outlets throughout Chicago. Fortunately, Fran Spielman at the *Chicago Sun-Times* [reported that this information was false](#).

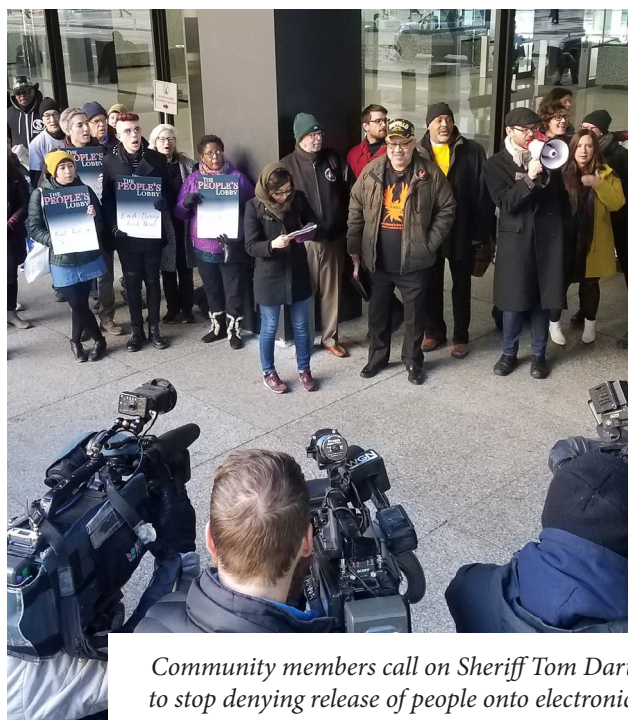
Years later, [internal emails](#) showed that the former Deputy Mayor for Public Safety, Susan Lee, notified staff in Mayor Lightfoot's administration that data disproved their claims about pretrial reforms. Despite the facts, current CPD Superintendent David Brown and Mayor Lightfoot have continued to [blame pretrial justice reforms for the city's gun violence epidemic](#) without citing anything more than anecdotes to prove their points.

In the summer of 2021, Superintendent Brown added a new twist to the city's narrative by falsely claiming that people released on electronic monitoring were causing gun violence. Again, the city uplifted this narrative without any supporting evidence. [Internal emails](#) revealed that when *Crain's Chicago Business* reporter Greg Hinz asked Mayor Lightfoot's office for examples of the people supposedly driving gun violence while on electronic monitoring, her office did not actually know of anyone that fit that narrative. *WBEZ's* Patrick Smith [covered both of these email exchanges](#) and documented how the Mayor's office continued to push these narratives even after staff had brought the fallacy of these arguments to their attention.

Cook County Sheriff's Office

Cook County Sheriff Tom Dart has played both sides of the pretrial justice debate. In the past, he has said he [supports ending the use of money bond](#). Once the county began to take significant steps to reduce the number of people incarcerated in Cook County Jail, however, Sheriff Dart became an outspoken critic. Since then, he has relied on fear mongering, incorrect interpretations of the law, and bad data to mislead the public and press about the impact of reducing pretrial incarceration. It is important to note that when the jail population decreases, Sheriff Dart's bottom line could be affected: His budget is at risk of being reduced as the population of the jail falls.

One year after the implementation of General Order 18.8A, the number of people incarcerated in Cook County Jail [had dropped by 1,800 people](#). During that same period of time, the number of people



Community members call on Sheriff Tom Dart to stop denying release of people onto electronic monitoring on April 19, 2018

These release decisions proved to be sound, as there was no increase in the percentage of people rearrested while awaiting trial following the implementation of General Order 18.8A.

on electronic monitoring remained stagnant, but the types of cases people on electronic monitoring were charged with had begun to shift. Historically, many people on Sheriff's electronic monitoring were facing lower-level charges, such as retail theft and drug-related offenses. As bond reform took effect, many people who would have previously been put on electronic monitoring were instead released outright—without having to pay a money bond. At the same time, people with more serious charges who previously would have received unaffordable money bonds were given more affordable bonds with electronic monitoring as a pretrial condition.

While the composition of people on Sheriff's electronic monitoring did shift, there was never an increase in the number of people rearrested while awaiting trial. Since there were no horror stories to point to, Sheriff Dart has [repeatedly pointed to the charges people face as reasons to incarcerate them](#), ignoring the specific circumstances of

each of those people's situations. In fact, even since the Order, the majority of people on electronic monitoring still have cases [that do not involve allegations of violence](#). On numerous occasions, Sheriff Dart has claimed that he has nearly 100 people charged with murder on his electronic monitoring program. Sheriff Dart used this anecdote to publicly call for an increase of his operating budget, ignoring the fact that the Sheriff's [budget has already increased 28% over the previous five years](#)—a time period where the number of people incarcerated in Cook County Jail dropped by more than 50%. **In January 2022, Annie Sweeney and Megan Crepeau of the Chicago Tribune examined this statistic and found that the Sheriff had been intentionally misleading the public. At that time, Sheriff Dart had claimed there were 95 people charged with murder on electronic monitoring, when in actuality 45 of those cases had the wrong charge listed.**

It is important to note that everyone incarcerated pretrial—whether in the jail or on electronic monitoring—is presumed innocent. In Cook County, 27% of people charged with felonies between 2015 and 2020 [had their cases dismissed without conviction](#)—about 40,000 people. Additionally, a majority of people charged with gun-related offenses in Cook County [are acquitted](#) when their cases go to trial. When judges decide to release a person pretrial, with or without electronic monitoring, they have determined that person can safely return to the community while they await trial. These release decisions proved to be sound, as there was no increase in the percentage of people rearrested while awaiting trial following the implementation of General Order 18.8A, even though there was a dramatic increase in the number of people released.

Sheriff Dart has also tried to misleadingly raise the alarm about the number of people who have been accused of being “absent without leave,” or AWOL, while on electronic monitoring. In 2019, the Sheriff's Office worked with ABC7 on [a story](#) about this. The story prominently claimed that 300 people had gone missing while out on electronic monitoring. **Unfortunately, ABC7 failed to mention that these 300 people had gone missing over the course of 28 years, which equates to only 10 people annually out of the thousands of people who had spent time on electronic monitoring each year without issue.**

NUMBERS CAN LIE: USING DATA TO MISLEAD

Whether accidentally or intentionally, bad information has the power to shape public opinion. We're going to explore two types of bad information: bad data, and bad framing. Each of these has been prevalent in reporting on pretrial justice reforms in Cook County. More often than not, the source of these errors is bad-faith actors who knowingly spread misinformation to skew public opinions and push their agendas. These examples will display the urgent need for reporters and editors to analyze data and fact-check how the legal system works before publishing pieces.

Bad Data on Crime and Community Safety

The "Gun Offender Dashboard"

In the summer of 2019, former CPD Superintendent Eddie Johnson unveiled the Police Department's "Gun Offender Dashboard," a website publishing the names of all people arrested on felony firearm-related charges, tracking the bond decisions that judges made, and noting whether the person accused had "bonded out" of Cook County Jail. The data contained within the dashboard was [misleading](#). It provided only two categories: "bonded" or "in custody," and listed everyone given a money bond as "bonded," regardless of whether the person had actually paid the bond and been released. In addition, many people listed as "bonded" were in fact detained in jail due to no-bail orders in other cases. There was also no mention of whether people were being detained in their homes on electronic monitoring or subjected to other conditions of supervision upon release.



Advocates and community organizers call on Chicago Police to take down the so-called "Gun Offender Dashboard" on August 12, 2019

The validity of the data aside, the use of the word "offender" in this context is blatantly inaccurate. The people whose information was documented on the dashboard had not been convicted of the crimes listed and were presumed innocent. Most disturbingly, at least one of the individuals on the "bonded" list was actually deceased.

Shortly after the site was launched, former Cook County Public Defender Amy Campanelli [called on the city to take the site offline](#). In a press release, Public Defender Campanelli stated that "[CPD] is flaunting bond court stats as if [these people] have already been convicted. This is another example of police using a list of people who are presumed innocent as a red herring to distract from the real issue of the day: the Chicago Police Department's failure to arrest the individuals who are shooters and who continue to wreak havoc in Chicago." Ultimately, CPD quietly took the site offline without any public statement after it had already misled the public for months.

University of Utah Quinney College of Law

Not all data or data analyses are equally valid, and some of the most damaging misinformation is the kind that is backed by a facade of "academic rigor." Two academic studies conducted by the [JFA Institute](#) and [Loyola University Chicago](#) have documented the success of reforms in Cook County. A third study conducted by Paul Cassell and Richard Fowles at the University of Utah Quinney College of Law claimed that bond reform was

“[Quinney College of Law] extrapolated that bail reform would have caused crime to increase by at least 33% from 2018 to 2019, but real data shows that the crime rate in Cook County actually went down during that time.”

responsible for an increase in rearrests and missed court dates by people awaiting trial. The entirety of the study has been thoroughly [debunked](#) by researchers at JFA Institute, who found only a small increase in the number of people arrested for new crimes while released pretrial—the increase was statistically insignificant, as these people account for not even 1% of the over 134,000 arrests made in Cook County each year. Even though the study has been comprehensively discredited, it continues to be [cited by the media](#) and by CPD Superintendent David Brown.

In brief, the Quinney College of Law study (2020) relies on manipulated data and projections based on assumptions. The authors extrapolated that bail reform would have caused crime to increase by at least 33% from 2018 to 2019, but real data shows that the crime rate in Cook County actually went down during that time. Their projected numbers are contradicted by the reality of crime rates in Chicago during the same time period. The JFA Institute, which works in partnership with federal, state, and local government agencies and philanthropic foundations to evaluate criminal legal policies, [identified several mistakes and misrepresentations](#) in the Quinney College of Law study, including:

- » Inaccurate equating of arrests with crimes committed;
- » Focus on a relative rate rather than an actual rate of crime;
- » Use of inflated or undocumented estimates to establish costs to victims;
- » Omission of the costs of unnecessarily jailing thousands of people each year;
- » Failure to account for potential changes in prosecutorial policies; and
- » Application of state prison recidivism rates across the country to Cook County pretrial releases (a comparison of apples to oranges).

Unlike the Loyola study, the authors of the Quinney College of Law study are not are not experts in the field of criminal policy evaluation. Their disciplines are law and economics, respectively. Their past promotion of [the debunked “Ferguson Effect”](#) with regard to police reforms should also warrant journalistic skepticism of their explanations.

Although it is difficult to triangulate what overall trends would look like without bail reform given the data available, prior to the COVID-19 pandemic, there had been a downward trend in crime rates at the same time as an overall increase in pretrial release rates. The JFA Institute report concludes that bail reform is safe—and national media organizations such as *CNN* have [acknowledged that](#) “there’s no clear evidence linking bail reforms...to the recent rise in violent crimes,” and that “the majority of cities that have seen increases in crime have not eliminated cash bail.”

“The majority of cities that have seen increases in crime have not eliminated cash bail.”

Falsely Blaming Violence on Reforms

Focusing in on a piece of factually correct data while ignoring the bigger picture and associated data can also distort reality. Recently, this has been most widely seen in commentary surrounding the uptick in homicides across the United States since 2020. In many jurisdictions, law enforcement have argued that the increase in homicides was a direct result of the criminal legal reforms implemented in recent years. While it's factually true that these communities experienced an increase in homicides, there is no proven correlation with criminal legal reforms. [A closer look](#) reveals that homicides increased everywhere—both in communities that increased spending on police and in communities that implemented criminal legal reforms. Simply focusing on one piece of data gives a misleading perspective on what is actually happening.

This was most egregiously on display in Cook County following the implementation of the first phase of the [Pretrial Fairness Act](#) in January 2022. Among many other changes, the law requires that people on house arrest with electronic monitoring be given two periods of time each week when they are able to buy food, do laundry, visit a doctor, and complete other essential tasks. The period of time during which people on electronic monitoring are allowed to perform these tasks is generally referred to as “essential movement.” Following the implementation of this measure, the *Chicago Sun-Times* [reported](#) that dozens of people on electronic monitoring had allegedly misused this time based on misleading information supplied by the Cook County Sheriff’s Office. In reality, the data showed that these instances accounted for a mere 1% of people on electronic monitoring—a statistically insignificant proportion. In addition, there was no comparison between the arrest rates for people on Sheriff’s electronic monitoring before and after the reforms: the article never even tried to demonstrate that people were being arrested at a different or higher rate than before the changes took effect. The reality is that the essential movement has been an overwhelming success: thousands of people are now able to meet their most basic needs without negatively impacting community safety. Without a thorough understanding of the article, readers may have incorrectly believed the reform was directly resulting in more crime based on the misleading headline.

For more examples of scapegoating, revisit the “City of Chicago” segment in the “Bad Actors” portion of this report.



People demanding the end of money bond march on the capitol during the first convening of the Illinois Network for Pretrial Justice on July 13, 2019.

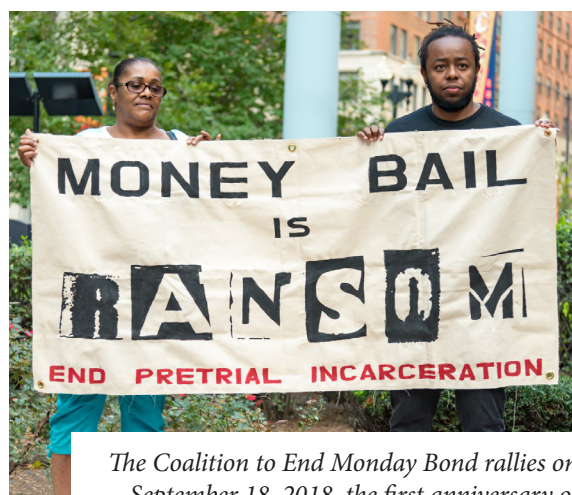
MISINTERPRETATIONS OF THE LAW

Very few people have much more than a surface level understanding of criminal procedure and criminal law, including public officials and the police. Yet when elected officials or law enforcement speak to the public, it is often taken for granted that they have a firm grasp on the law. When they do not, however, these officials may make factually incorrect arguments about the law that it is hard for most reporters—much less members of the public—to identify. It is essential that news outlets take the time to correct these misrepresentations before they are repeated.

In what follows, we walk through several examples from recent years in which public officials used inaccurate interpretations of the law. In nearly all of these instances, these messages were amplified by the media without being contextualized or corrected.

Using Bond Amounts as Pretrial Punishment

Over the last several years, Mayor Lightfoot, Superintendent Brown, and former Superintendent Johnson have routinely [equated accusations with findings of guilt, insinuating that a mere arrest is grounds for incarceration](#), and that people awaiting trial are receiving what amounts to a slap on the wrist. This same messaging has also been repeated by some members of the media. The *Chicago Tribune* published [an opinion column](#) about a robbery in Chicago that focused on the accused person's bond amount of \$100 and argued that the low money bond represented the “victim's worth” in the eyes of the court. This is, at best, a misunderstanding of how the criminal legal system works and at worst an intentional misrepresentation of state and federal law.



The Coalition to End Monday Bond rallies on September 18, 2018, the first anniversary of General Order 18.8A going into effect.

A money bond is not supposed to be a pretrial punishment; it is simply a condition of release. When a judge sets a money bond, they are effectively stating that a person can return to the community without posing a threat to public safety. Money bonds are merely supposed to incentivize people to return to court and engage in the legal process. State and federal law instruct judges to set bonds in amounts that people can reasonably afford, but this standard is routinely ignored. As a result, setting an unaffordable money bond as a way of jailing an accused person has long been routine practice in Illinois' courts. Since bond is a condition of pretrial release for a presumed-innocent person rather than a post-conviction consequence, it should never be equated or even associated with punishment or “the worth of a victim” in the eyes of the court.

Misrepresenting the Conditions for People on Electronic Monitoring

On any given day, more than 2,000 people in Cook County are incarcerated in their homes on electronic monitoring. Although this practice impacts thousands of people and their families every year, the general public is fairly unaware of how the system actually works. This has made electronic monitoring an easy target for misinformation.

People incarcerated on electronic monitoring have historically needed permission from the Sheriff or the court to leave their home for any amount of time. If a person on electronic monitoring wants to go somewhere, they

have to get documentation from wherever they're going and share it with the Sheriff's Office three days in advance. In many instances, people are arbitrarily denied movement and not given permission to do things like go to the grocery store, laundromat, or to apply for jobs. Movement is typically only granted for things like work, school, or doctors' appointments. In all of these situations, advance notice and documentation is required, and sometimes movement for these essential tasks is denied. If a person leaves their home without permission, the electronic monitor goes off immediately and they are tracked using GPS. If a person has been found to have violated their conditions of electronic monitoring, they can be reincarcerated in Cook County Jail.

A recent review of the data showed that out of 799 homicides and 3,678 non-fatal shootings in Chicago in 2021, there were only three total arrests of people on electronic monitoring for homicides and shootings.

The strict conditions of electronic monitoring make the narratives put forward by city of Chicago officials particularly dubious. As was detailed in the earlier section on the City of Chicago, the mayor and police officials have attempted to blame people on electronic monitoring for gun violence in recent years. The number of cases where a person on electronic monitoring went on to be rearrested for another allegation is incredibly small among thousands of other cases. A recent [review of the data](#), however, showed that out of 799 homicides and 3,678 non-fatal shootings in Chicago in 2021, there were only three total arrests of people on electronic monitoring for homicides and shootings. The idea that people who are tracked with GPS technology at all times are regularly leaving their homes and committing crimes while not being caught or penalized for breaking the conditions of their bond is completely disconnected from the reality of electronic monitoring.

onic monitoring endanger the community and themselves because they can be the targets of gun violence. In an attempt to scare Chicagoans, [Superintendent Brown](#) stated: "Any one of you could be having lunch on a patio sitting next to an offender on (electronic monitoring) who others are targeting to kill and you could get shot and killed trying to enjoy your day." Many media outlets reprinted this narrative—some even used the Superintendent's example in headlines without including the important fact that people on electronic monitoring in Cook County were overwhelmingly confined 24/7 on house arrest. Even after essential movement reforms were implemented in January 2022, many people on electronic monitoring still have difficulty getting approval to leave their homes for basic tasks such as going to the doctor—let alone to go to a restaurant for brunch.

Superintendent Brown took this narrative a step further in the summer of 2021. At a press conference, the Superintendent talked about how people on electr-

In addition to the skewing of data related to this reform that we documented in the "Scapegoating" section, the *Chicago Sun-Times* has helped spread other false narratives about this policy change that have been picked up by other outlets. In spring 2022, the *Sun-Times* ran multiple stories repeating Sheriff Dart's assertion that the Sheriff's Office can't track people when they're out of their homes using their essential movement—even though there is nothing in the law preventing them from doing so and all people are constantly being tracked using GPS technology. [One article](#) further muddies the issues by repeatedly using the term "furlough days" instead of "essential movement." There is nothing in the Pretrial Fairness Act that refers to "furlough days." The term "furlough" implies a leave of absence and misinforms the public about the fact that people are still being tracked while engaging in essential tasks. This misrepresentation even led to a misprint by *WBEZ* ([later corrected](#)), which stated that people on electronic monitoring were permitted to remove their monitoring devices twice each week.

Incorrect Case Information

One of the most egregious forms of misinformation is related to the specifics of particular cases. In these instances, elected officials and law enforcement knowingly spread a false narrative about a case in order to make a political point. Not only is this unethical, it is disrespectful to the victims of these crimes to have the harm they've experienced used to push regressive policies.

One of the most egregious example comes from Mayor Lightfoot and CPD Superintendent Brown, who have frequently brought up the murder of seven-year-old Jasylin Adams while crusading against electronic monitoring. Jasyln was murdered [while sitting in a car](#) at a McDonald's Drive-Thru when two gunmen began to fire shots at the vehicle. Both Lightfoot and Brown [claimed](#) that one of the shooters was on electronic monitoring when the murder happened. Weeks after this information was amplified in the media, the *Chicago Tribune's* Annie Sweeney and Megan Crepeau [uncovered](#) that none of the people who were arrested for allegedly killing Jasyln were on electronic monitoring at the time of her death, showing how additional fact-checking is necessary to prevent misinformation from spreading.

Unconstitutional Policy Proposals

On multiple occasions, Mayor Lightfoot has put forward policy proposals that are simply unconstitutional. Media has not often not clearly communicated the illegality of these proposals.

In December 2021, Mayor Lightfoot called on Cook County Chief Judge Timothy Evans [to implement a moratorium on electronic monitoring](#) for people facing certain charges. This proposal was exposed as unconstitutional by both the [Chief Judge](#) and [advocates](#), because making decisions on charges alone [denies people their right to an individualized consideration](#) of their case. While many outlets shared Chief Judge Evans' statements on the proposal, his position and Mayor Lightfoot's proposal were framed as mere differences of opinion. Instead of simply airing both statements, outlets could have taken their reporting a step further by checking the legal validity of the Mayor's proposal, which would have revealed its blatant unconstitutionality.

In June 2022, Mayor Lightfoot [told the media](#) that people charged with certain crimes are "a danger to the community by definition" and that they should be denied release, stating, "when those charges are brought, these people are guilty." Lightfoot argued that the State's Attorney's charging standards were enough to warrant taking away a person's freedom, completely ignoring the presumption of innocence. Fortunately, members of the media [like the Chicago Tribune's Gregory Pratt](#) were very quick to take the Mayor to task in their reporting. Responsible reporting like this requires journalists have the time and resources to explore the facts, context, and motives behind statements made by public officials and not just take them at their word.



*Pretrial Fairness Act Day of Action in Chicago
on September 26, 2020*

THE PRETRIAL FAIRNESS ACT

In February 2021, Governor JB Pritzker signed the [SAFE-T Act \(Public Act 101-0652\)](#) into law. Included in the omnibus legislation is a set of provisions relating to arrest, pretrial conditions, and pretrial detention known as the [Pretrial Fairness Act](#). The Pretrial Fairness Act makes Illinois the first state to fully eliminate the use of money bond. The law was passed in response to the Black Lives Matter protests of 2020, which followed years of organizing led by the Illinois Network for Pretrial Justice that mobilized thousands of people across the state. More than 100 community, faith, legal and policy organizations, and service providers [endorsed the legislation](#).

Following the law's passage, it has been subject to many of the same misinformation tactics used in Cook County. Ahead of the 2022 general election, radio personality Dan Proft started the People Who Play By the Rules Political Action Committee (PAC), which has targeted the Pretrial Fairness Act as a way to criticize elected officials who supported it. The PAC has largely been funded by Trump mega-donor Richard Uihlein. In September 2022, households across Illinois were delivered a [fake newspaper](#) published by Proft. The racially-charged mailer was riddled with misinformation about the Pretrial Fairness Act. Variations of [the deceptive mailer](#) were targeted to local communities under titles such as "Chicago City Wire" and "DuPage Policy Journal." Instead of engaging in a serious debate about pretrial policy, Proft has chosen to blow his racist dog whistle while spreading disinformation meant to confuse Illinoisians about the impacts of the law. This is not the first time Proft has relied on lies and racism to make his arguments. In August 2022, Proft's PAC [released a video](#) featuring darkened images of Chicago Mayor Lori Lightfoot along with misinformation about the Pretrial Fairness Act.

Fortunately, many news outlets in Illinois and across the country engaged in a [rigorous analysis](#) of the claims being made by Proft and Uihlein's racist misinformation campaign. To combat their efforts, outlets published [detailed explainers](#) of the Pretrial Fairness Act. But these attempts to confuse the public about how the law works and undermine its success are increasing as the state prepares to implement the final provisions of the law in January 2023.

Below, we have detailed how the Pretrial Fairness Act works and some of the most prominent disinformation narratives to assist journalists and newsrooms looking to accurately report on this historic legislation.

What is the Pretrial Fairness Act?

The Pretrial Fairness Act will ensure that everyone has access to the presumption of innocence—regardless of their financial status—and reduce the number of people jailed while awaiting trial in Illinois. When people are jailed, even for short periods of time, [their lives are significantly destabilized](#). Time in jail causes people to lose jobs, custody of their children, and housing. This destabilization impacts entire communities and makes all of us less safe in the long run. People who spend any period of time in jail are [over 30% more likely to be arrested](#) in the future than people with the same backgrounds who are released pretrial. People who are jailed pretrial also receive [longer prison sentences](#) than similarly situated people, further contributing to mass incarceration.

The Pretrial Fairness Act replaces the current wealth-based system, which relies primarily on how much money a person can access, with a pretrial decision-making system that evaluates whether an accused person poses a real and present threat to another person or is likely to flee the jurisdiction. Since its passage, the law has been the target of misinformation from law enforcement and conservatives seeking to undermine its success.

The Passage of the Pretrial Fairness Act

From the moment the Pretrial Fairness Act passed the General Assembly in January 2021, law enforcement and conservatives have been pushing [the false narrative that it was written in the dark of night and without their input](#). In reality, an earlier version of the bill was [introduced in the legislature](#) by then-Representative Christian Mitchell in February 2017 as the Equal Justice for All Act. The renamed and improved Pretrial Fairness Act was reintroduced by Senator Robert Peters during the 2020 legislative session—a full year before it passed the General Assembly. In the intervening almost four years, the legislature held at least three full subject matter hearings on ending money bond and enacting pretrial justice reforms in [April 2019](#), [February 2020](#), and [October 2020](#). Each of those hearings included the voices of experts, advocates, and law enforcement. They also gave legislators the opportunity to ask questions about pretrial justice issues and learn more about proposed legislative changes. In spring 2020, the Governor’s Office and legislature also convened multiple working group meetings of all stakeholders to discuss pretrial reform, which included representatives from Probation and Court Services, the Illinois Sheriffs’ Association, the Illinois State Police, the State’s Attorneys’ Association, and the advocacy community. Since the legislation’s passage, stakeholders from every branch of government and law enforcement have been [working together in an implementation task force](#) organized by the Administrative Office of Illinois Courts to ensure the legislation’s success.



Bill sponsor Representative Justin Slaughter poses with constituents during the Pretrial Fairness Act Lobby Day on February 25, 2020.

In addition, the changes made by the Pretrial Fairness Act mirror a majority of the recommendations [made by the Illinois Supreme Court Commission on Pretrial Practices](#). In December 2017, the Illinois Supreme Court [established a Commission on Pretrial Practices](#) to make factual findings and recommend pretrial reforms. The Commission’s [membership](#) included representatives from different stakeholders within the criminal legal system: judges, sheriffs, court clerks, prosecutors, police chiefs, and public defenders.

Fear mongering about Gender-Based Violence and the Pretrial Fairness Act

The Pretrial Fairness Act passed with broad support from advocacy organizations working against domestic and sexual violence across the state. [This historic partnership](#) between advocates for criminal legal system reform and advocates against gender-based violence occurred because [survivors know](#) that a system without money bail will serve victims more successfully than the current system. Despite the fact that [experts on survivor safety support the Pretrial Fairness Act](#), the media has often uncritically printed statements by opponents of the Pretrial Fairness Act claiming that victims will be less safe under the new law—notably without any comment from the [advocates who worked on the legislation](#).

How the Pretrial Fairness Act Supports Survivors

The Pretrial Fairness Act will not simply release every person arrested. Instead, it makes certain that a judge considers each person's circumstances and the allegations against them before deciding to jail them or to impose conditions on their release as part of a comprehensive, individualized hearing. It is an overdue change from the current practice of releasing people who can pay bond with minimal regard for the safety of survivors of domestic and sexual violence.

In contrast to what opponents claim about the new law, survivors will also [have more opportunity](#) to provide input about what safety looks like for them in the pretrial process. First, police will no longer have the discretion to release people accused of domestic violence without sending them before a judge. In addition, with the new timeframe in which detention hearings for domestic violence offenses and sex crimes occur 24 to 48 hours after an initial appearance in court, prosecutors will have time to contact victims, work with them to develop safety plans, and identify measures that need to be put in place to protect them. Survivors will also be notified if and when the person who harmed them is released and will have the ability to request protective orders (Orders of Protection, Civil No-Contact Orders, or Stalking No-Contact Orders) at every court date.

Under the current system, survivors of domestic violence also face pressures to pay bonds for people who have harmed them and may pose a threat to their safety because, by nature, these are usually family members or romantic partners. By ending money bond, the Pretrial Fairness Act ensures that survivors will no longer be pressured to bond anyone out of jail.

False Claim That “No One Will be Jailed”

Some law enforcement and elected officials have claimed that the Pretrial Fairness Act will make it impossible for anyone to be jailed or for anyone who repeatedly breaks the law to be arrested. For example, Councilwoman Patty Gustin of Naperville [claimed in August 2022](#) that “the current bill does not allow police to arrest an offender trespassing outside on private property, even if the offender is unwilling to leave.” This is a clear misinterpretation of the provisions of the law meant to reduce arrests for low-level allegations. The Pretrial Fairness Act requires police to ticket people with low-level charges unless they pose an obvious threat to themselves, any person, or the community. The situations described—where someone is violating the law and refuses to stop—are exactly the situations the law contemplates when it talks about “an obvious threat to the community.” Police have complete discretion to decide when that “obvious threat to the community” exists, and will not be barred from arresting anyone who they believe poses a threat to public safety.

Another common form of misinformation is that after the Pretrial Fairness Act's implementation in January 2023, all individuals charged with murder who are currently being held in jail due to unpaid money bonds must be released immediately. This deliberate misrepresentation of the law and who it considers eligible for detention before trial was put on full display during a [press conference](#) in early April, in which State Senator John Curran claimed, “a State's Attorney who could not join us today told me that he currently has 48 accused murderers

being held in the Will County Jail and come January 1, it is very likely that he will be unable to detain these individuals.” The Will County State’s Attorney, Jim Glasgow, echoed these points during his own [press event on July 8](#), where he claimed: “I’ve got 640 people in the Will County Jail. All of their bonds will be extinguished on January 1, and 60 are charged with murder.” While Glasgow claims that everything following January 1, 2023, is “going to be literally end of days” and Curran tries to assure the public that he is merely warning us of the “very real and serious implications that this dangerous law is going to have if we don’t address these concerns,” both descriptions of the law’s impact lack any foundation in reality.

[Section 110-6.1 of the Pretrial Fairness Act](#) outlines the charges for which an individual can be denied pretrial release and outlines the process by which the state can seek detention. After the state petitions the court for the denial of pretrial release, the court may deny release due to a safety threat to any person or persons on the basis of several charges, including the following:

1. All non-probationable, forcible felonies (the most common are murder, attempted murder, armed robbery, home invasion, and vehicular hijacking);
2. All sex crimes (all forms of criminal sexual assault, criminal sexual abuse, child pornography related charges, and various charges relating to sexual misconduct with children and human trafficking);
3. All domestic violence charges (misdemeanor and felony domestic battery and violations of protective orders); and
4. All non-probationable gun-related felonies (including all forms of discharge of a firearm, sale of firearms, and most forms of possession of a firearm).

In addition, anyone accused of any Class 3 felony or above may be denied release if the state requests it and the court finds they have a risk of willfully fleeing prosecution.

While the Pretrial Fairness Act does eliminate the use of money bond as a means to detain someone and mandates that most arrested individuals are given a chance to succeed on pretrial release, it does not eliminate the court’s ability to jail someone pretrial. Not only can anyone accused of the above offenses be denied release after their first arrest, people who were previously released may have their release revoked if they violate the conditions of that release or are accused of a new crime.

[Other press conferences](#) by law enforcement and lawmakers opposed to the Pretrial Fairness Act have falsely claimed that the law will make it easier for defense attorneys to call victims to testify during detention hearings. In fact, the Pretrial Fairness Act makes it *harder* for victims to be forced to testify. The current system allows victims to be called generally at the judge’s discretion, but the Pretrial Fairness Act sets a clear legal standard (clear and convincing evidence) for the court to decide whether a victim may be required to testify, requiring that the motion to hear from the victim only be granted if the defendant would be materially prejudiced.

Similarly, the *Chicago Tribune* published an [opinion piece](#) from Illinois State’s Attorneys that contained patently false information about the Pretrial Fairness Act provisions of the SAFE-T Act. **The opinion piece blamed crime spikes on the legislation that had largely not yet taken effect and erroneously claimed that it requires release of all accused people while awaiting trial.** Publishing this piece without any corrections of the false information instills fear in people and causes them to resist policies they might otherwise support if given factual information. The implications of this amplification of misinformation are substantial given the thousands of people who will be impacted by the protections and provisions of the Pretrial Fairness Act. The State’s Attorneys’ op-ed was fact-checked in [a letter to the editor](#) by Mallory Littlejohn, legal director of the Chicago Alliance Against Sexual Exploitation (CAASE). In her opinion piece, Ms. Littlejohn described how someone accused of raping her client paid a money bond and then fled. She then explained why the Pretrial Fairness Act would likely have resulted in that person’s detention and a much different experience for her client.

The Detention Standards

Just like current pretrial laws, the Pretrial Fairness Act establishes standards that judges must use when deciding whether someone may be denied pretrial release. A judge must find that one of two things is true: either that the person poses a specific, real, and present threat to the safety of any person or persons (the “safety standard”) or that the person has a high likelihood of willful flight (the “willful flight standard”). Willful flight [is defined](#) as planning or attempting to intentionally evade prosecution. Opponents of reform commonly argue that these newly created “safety” and “willful flight” standards are too steep for prosecutors to successfully petition for incarceration, thus exposing our communities to greater threats of violence and increasing the risk that individuals released pretrial will go on to harm someone else. Springfield Police Chief Kenneth Scarlette [told the Illinois Times](#) that he believes the Pretrial Fairness Acts may embolden “criminals” when they realize they may be less likely to be arrested or held in jail on certain charges. Again, these claims ignore the [wealth of evidence](#) from numerous jurisdictions showing the pretrial jailing can be reduced without harming public safety.

Despite [claims from law enforcement and prosecutors](#) that the Pretrial Fairness Act’s safety standard is too high, the new standard is not substantially different than the standard that prosecutors currently have to prove if they want to hold someone without bond—that standard [under current law](#) reads, “a real and present threat to the physical safety of any person or persons”. Prosecutors around the state can and do hold hearings to deny people release under current law, using the standard which has been in effect for decades. The only change to that standard is the addition of the word “specific.” It is important that prosecutors not be able to make general claims about someone “posing a danger to the community” because such vague standards introduce greater risk of implicit racial bias impacting decision-making. Decisions to jail someone who is presumed innocent must be based on the individual facts of each case, not general assumptions about the type of crime someone is charged with or who they are.

The willful flight standard was created for the Pretrial Fairness Act to decrease the current practice of jailing people until trial simply for missing court. **Most people who miss court do so unintentionally** or for reasons that have to do with poverty or lack of childcare or transportation. Court is almost always held during working hours, making it very difficult for working people accused of crimes to make their court dates without risking their livelihoods. The problem of people missing court is best addressed by simple interventions such as court reminder systems—rather than relying on pretrial jailing—and [courts that have used](#) these non-jail interventions have seen substantial success in making sure more people successfully appear in court.

The Pretrial Fairness Act was meant to ensure that jail is used only when it is required to ensure public safety or to stop someone from intentionally and willfully evading prosecution. It is a [myth](#) that public safety is negatively impacted by pretrial reform, and it is a myth that more people fail to appear in court after bail reform efforts. The fact is, public safety is not being jeopardized by pretrial release—[it is being jeopardized by pretrial detention](#). Pretrial incarceration can make people [more likely to be arrested in the future](#), even when they are found innocent. People incarcerated for as little as 72 hours are [2.5 times more likely to be unemployed one year later](#), and past incarceration [reduces annual income by as much as 40%](#). Far from creating safety, money bonds criminalize poverty and make it less likely that people who are jailed awaiting trial are able to gain economic stability in the future. **A pretrial detention practice that produces these outcomes represents the real threat to the well-being of individuals and communities.**

A CALL TO ACTION

The Pretrial Fairness Act has the ability to positively impact millions of people across Illinois in the coming years. Its success will largely rest on the public opinion about whether or not these changes have been good for our communities. In most cases, those opinions will not be shaped by direct experience but by what people see in the media. Responsible, factual reporting is paramount in equipping the public with the information needed to take informed stances on policies impacting their communities and preserve progress made by new laws that increase fairness and justice in our state. While limited capacity, tight timelines, and lack of space to delve into the complexity of various subject matters pose real challenges to the press corps, **the need to rise to these challenges and produce trustworthy media couldn't be clearer because the stakes couldn't be higher: people's freedom and rights rest on it.**



Members of the Illinois Network for Pretrial Justice gather in Bloomington-Normal on January 26, 2020.

TIPS FOR FAIRLY REPORTING ON PRETRIAL REFORMS



1. Get background information on how the pretrial legal system has traditionally functioned and how reforms are intended to impact the system.



2. Review case information before publishing details about cases, especially when a case is being invoked by a public official as “proof” of something.

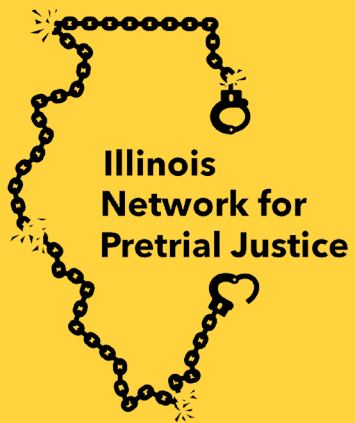


3. Diversify sources so that the community perspective is represented, and stories about opposition to reform also represent input from reformers. Too often stories that introduce the public to reforms tend to ensure that the perspective of opponents is included, whereas stories about challenges to reform simply explain the reforms in lieu of including reformers’ perspectives on the attacks



4. Consult experts to verify the validity of attacks on reforms or data being cited before amplifying it. Be it legal experts with knowledge of the legislation or academic researchers—consulting experts will help slow the spread of misinformation.

The nonstop newscycle has created an immense amount of pressure for media outlets to be the first source for any breaking story. This dynamic plays right into the hands of bad actors seeking to spread misinformation and change public opinion. The media are our last defense in the era of disinformation and we encourage outlets big and small to evaluate their standards and protocols for preventing the proliferation of misinformation, particularly on the topics of criminal legal system reform and public safety.



**Illinois
Network for
Pretrial Justice**

www.endmoneybond.org