THE POWER AND PROBLEM OF CRIMINAL JUSTICE DATA

A Twenty-State Review

MEASURES FOR **JUSTICE**

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THE SIMPLE TRUTH

The United States purports to be one of the most advanced countries in the world. Over the last decade, thanks to the tech revolution, multiple industries and lives have benefited. Our healthcare and education systems might not rival the world's finest—this is debatable—but they have been modernized and can be assessed based on data. The same applies to global warming and our part in it—everything can be tracked. But what *cannot* be tracked and assessed should give everyone in this country pause: A system that affects millions of Americans a year directly, and hundreds of millions more indirectly. A patchwork of state systems that taxpayers, and sometimes defendants themselves, pay to upkeep. A system so huge, state and federal spending on it has grown almost 400 percent over the past 20 years—becoming one of the fastest-growing line items in state budgets. Of course we are talking about the criminal justice system, which continues to operate in the dark—for lack of comprehensive data tracking and public analysis.

The truth is, if we truly want to generate lasting, sustainable change that answers persistent and systemic problems in criminal justice, we need three things:

1. Community engagement and buy-in.
2. A data culture supported by good infrastructure.
3. Data that capture everything people need to assess where and how the system can be improved to ensure equity, efficiency, and safety.

Where We Are

After a decade's worth of data collection and engagement with county agencies and state courts, it's become abundantly clear to us that willing and motivated communities simply do not have enough access to their own data to start making sense of what's happening in their local criminal justice systems. In some cases, the data aren't there—no one collects them. In other cases, the data are there but are protected by law or administrative discretion. Finally, the data are sometimes just too incomplete or messy to use—missing data fields, inconsistent taxonomies, or, sadly, handwriting no one can read.

The absence of all this data creates a landscape of unknowns and unknowables, and so the criminal justice system begins to look opaque, impenetrable, and, in a way, immovable as a result.

The purpose of this report is twofold:
1. To look explicitly at the kind of information we don't have as a result of no data (or unreliable data) and the consequences thereof.
2. To look at what we *can* know when the data *are* there, and the myriad policy implications that open up in consequence.
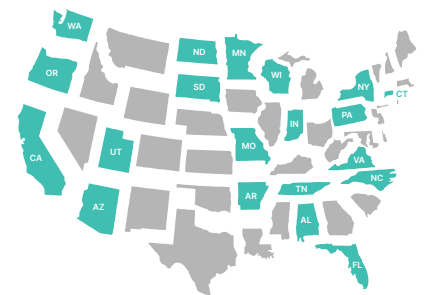
What We Did

1. Measures for Justice collected data from twenty states that have centralized data systems, ostensibly allowing for the most complete picture of state criminal court systems.
2. The data came to us in disparate formats—everything from PDFs to stenopads—with different taxonomies and coding schema. To make it possible to assess and compare data sets, we applied our novel methodology to clean and code the data, and ran them through 32 measures that address every part of the system, from arrest to post-conviction.

Fig. 1. DATA FROM TWENTY STATES

I. Without Data, We're Flying Blind

Pretrial Detention, Release, and Bail

How best to handle defendants awaiting trial has been a hotly debated topic for years. Public safety, collateral consequences, due

process, mass detention—these are all in the mix when thinking about whether cash bail is a good idea or not.

Recently, there's been a push to eliminate cash bail altogether or reform how it works. Between 2017 and 2020, six states updated their pretrial money bail policies.[1] Most recently, Illinois became the first state to end cash bail entirely, effective starting 2023.

All eyes will be on Illinois at that point to track the outcomes of these changes—how they affect crime rates, disparities, and overall public safety, as well as whether released individuals remained free or had their release revoked for violations. And all this information will need to be broken down by defendant characteristics (e.g., race, sex, age, indigent status). The problem is, these data rarely exist, especially in court records. Of the twenty states we collected data from, *only two,* Wisconsin and Pennsylvania, had data on pretrial practices, and these were limited at best. (See page 6 for why Pennsylvania's new laws remove the state from this esteemed group of two). For the other 18 states, the data were even more deficient.

In four states, agencies are allowed to deny access to data on cases that did not result in a conviction or are legally prohibited from doing so. For example, in Pennsylvania, anywhere from 11% to 50% of cases never result in a conviction, which means there might be thousands of people whose outcomes we cannot see and evaluate.

In other states, including states that do use their statutory discretion in favor of transparency (e.g. Tennessee), data quality and/or missing data were a problem. In five (Alabama, Arkansas, New York, North Carolina, and Oregon) the necessary data fields existed, but the data were inputted so inconsistently, we could not use them. In Alabama, the fields reflecting bond amount and payment were missing for approximately 99% of cases. In eight states, there were no fields at all to address bail decisions and amounts— either because the states don't collect this information, it was too hard to pull, or they were unwilling to share it with a research organization. The upshot, in either case, is zero transparency.

So where does this leave us? With a desert of information on one of the most critical pieces of how justice gets carried out nationwide. We can't know how many people are held awaiting a decision in their case, and we certainly won't be able to assess how new reform initiatives impact public safety and system capacity.

Demographic Information on Sex, Race, Indigency

One of the most pressing needs in terms of criminal justice data and reform is demographic information. We can't talk about

Fig. 2. DATA AVAILABILITY: PRETRIAL PRACTICES

Fig. 3. ACCESS TO DATA

Legal/statuory limitation to data sharing: Connecticut, Minnesota, Missouri, Tennessee

Unreliable data collection: Alabama, Arkansas, New York, North Carolina, Oregon

No data field available in extract: Arizona, Florida, Indiana, North Dakota, South Dakota, Utah, Virginia, Washington

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1 The Marshall Project and Vera Institute keep up to date with the state of bail reform across the country, and are excellent sources to track the success of legislation.

equity without it. At minimum, we should be able to filter all data across the criminal justice system by demographic categories like age, indigent status, race/ethnicity, and sex. These data represent people, and understanding how outcomes affect some people differently is an important consideration. However, of the twenty states we've surveyed, *only three*—Alabama, Indiana, and Pennsylvania—can be filtered across all of these categories (*Figure 4*).

Sex

Almost every state's data can be filtered by sex, using categories defined by the U.S. Census Bureau. However, three of these states (North Dakota, Tennessee, and Utah) did or could not provide complete data. California provided no data. For North Dakota, Tennessee, and Utah, we had to use an in-house tool, *Selexa*, that uses defendant names to determine defendant sex where missing, which is less reliable than self-reported information. *Selexa* relies on binary categories and is conservative in its estimates, which means some gaps still remain. In particular, the tool prevents us from examining the experiences of trans and gender nonconforming people, despite evidence[2] of disproportionate representation in the criminal justice system.

Race

Some race data for white defendants and defendants of color were available in fourteen states. Where the data allow, "people of color" includes defendants from four categories: African American, Hispanic/Latino, Native American or Alaskan, and Asian or Pacific Islander. More information is rare, however. For instance, when we first collected data in Florida, the courts were not specifying ethnicity, and therefore all Hispanic defendants were coded as white. This practice skews the disparity information upon examination.

Indigent Status

Defendant indigent status was unavailable for seventeen of the twenty states we've looked at. This is a critical data gap that prevents us from comparing case processing outcomes for defendants with and without means to hire a private attorney. Since close to 70% of cases across the country are closed with a public defender[3], we are looking at a huge swath of the population whose experiences have a great impact on policy, and for whom we cannot examine outcomes independently. The collection (and sharing) of this data is crucial to understanding the system's treatment of some of our most vulnerable populations.

Fig. 4. DEMOGRAPHIC DATA PROVIDED BY STATES

	Race	Sex	Age	Indigence
AL	✔	✔	✔	✔
AZ	✔	✔	✔	
AK	✔	✔	✔	
CA				
CT	✔	✔	✔	
FL	✔	✔	✔	
IN	✔	✔	✔	✔
MN		✔		
MO	✔	✔	✔	
NC	✔	✔	✔	
ND		⃝	✔	
NY	✔	✔		
OR	✔	✔	✔	
PA	✔	✔	✔	✔
SD		✔	✔	
TN		⃝		
UT		⃝		
VA	✔	✔		
WA	✔	✔	✔	
WI	✔	✔	✔	

✔ Race, Sex, Age and Indigence indicate wehether data on the specified demographic was available to allow for breakdowns across subpopulations.

⃝ States where data on sex was not directly provided. For these states, MFJ developed an algorithm called *Selexa* to predict a defendant's sex based on first and middle names.

Fig. 5. STATES WITH DATA ON INDIGENT DEFENDANTS

2 See: Zavidow, E. (2016). *Transgender people at higher risk for justice system involvement*. Vera Institute. Found here.
3 See: Strong, S. (2016). State-Administered Indigent Defense Systems, 2013. U.S. Department of Justice. Found here.

Age

Finally, per *Figure 4*, age data were available in fifteen of the twenty states. This means we're often able to determine which age groups are being held for what crimes and for how long, which can help determine where resources can best be spent (youth groups, e.g.). But fifteen of twenty states is still only a capture rate of 75%, which isn't high enough for a country of 300 million.

Cases that Do Not End in Conviction

It's estimated that about 32% of felony cases that pass through US court systems do not end in a conviction (rates for misdemeanor cases are more difficult to discern). Cases that don't end in a conviction include cases that are dismissed, declined, diverted, or acquitted. Information associated with these cases, including bail decisions and pretrial detention, is critical to understanding and exploring the entire system. There are, of course, valuable protections to privacy and job eligibility afforded by limits to data access of this kind. However, not making these data available to the public in aggregate form, or to researchers in a granular form for policy evaluation, is akin to dropping a curtain on, at minimum, a third of cases in this country.

Missouri, Minnesota, and Connecticut did not make these data available. In these states for 2011–2015, MFJ was able to populate only three, seven, and eight Measures respectively. With court data alone, we should be able to populate 32.

Pennsylvania offers an even more stark example of what is lost when data for cases without a conviction are not made public. For our 2009–2013 cohort of Pennsylvania data, we produced 31 Measures, making Pennsylvania the state with the highest number of Measures out of all twenty states on our Portal. As a result of new legislation passed in 2018 that denies access to cases without a conviction, we will lose *twenty* measures. We will no longer be able to shine a light on bail practices in the state. Or pretrial detention. Or diversion. Reform efforts in these areas will lack a mechanism for review; new reform efforts will lack motivation in fact. Like all states, Pennsylvania will be flying blind at a time when data are essential to informing policy about some of the most pressing issues of the day.

WHAT SHOULD BE DONE NEXT?

1. Standardize Reporting Requirements

DATA LEGISLATION
In 2018, Florida passed a bold data bill that required every county in the state to collect the same data and to report those data to the same place. The law was premised on the obvious notion that when data can be standardized and collected uniformly, patterns and trends emerge that are meaningful and actionable.

We encourage all state representatives to embrace these kinds of data transparency laws in effect across the country.

DATA STANDARDS
Another approach to better data collection that does not require legislation is to adopt data collection and measurement standards and protocols developed by national initiatives, for instance Justice Counts and NODS (see page 16 for more).

Both paths to data transparency require tech improvements and standard operating procedures. State legislatures should fund all necessary upgrades associated with adopting standards.

2. Improve Data Collection and Sharing Practices

DATA GAP ANALYSES
The first step toward better data collection is knowing where your data gaps are. These analyses are essential to understanding where funds and resources need to be directed.

COMPREHENSIVE DATA COLLECTION
Regardless of what specific data gaps need to be closed, the two protocols all counties should adopt are:
- To record and responsibly provide a means for tracking one person across the system, and their demographics.
- To ensure data are not overwritten as cases move through the system. This means keeping past records as well as the present.

PII, like birth dates, are critical for both calculating the age of defendants at arrest and charging, and linking individuals across their current and past cases. Importantly, identifying how often and in what ways unique individuals are experiencing the system helps understand fundamental inequities in the system. That said, the debate about PII is at the intersection of transparency and privacy, which is why states refuse to share PII and, per Pennsylvania et al,

data on cases that do not end in conviction.

However, there are ways to protect privacy and be transparent. One does not exclude the other. For instance, in South Dakota, we received a calculated age for defendants alongside a unique identifier in place of a name, enabling analyses by age while preventing the direct identification of individuals. The same can be applied to cases that do not end in conviction.

As for data overwriting, it is a common practice because people working in the system tend to want only the most up-to-date information. For instance, pretrial release information, even when provided, is often overwritten with the most current decision. The problem here is obvious: when you overwrite data, you lose the ability to track what's happened before cases land on your desk, for instance, how pretrial detention or release status has changed for an individual, and when liberty is restrained or restored.

3. Link Records Systems Across Agencies

To really get a picture of how the criminal justice system is working, we need to be able to track cases through the entire system, from start to finish. This means agencies need to assign an identifier to a case and then share that identifier with the next agency in the queue (e.g., the court provides the docket/case number related to an individual's prison sentence to the Department of Corrections when an individual is admitted). Track the identifier and you can track the case no matter where it is in the process. Multiply this process by the millions of cases that pass through the criminal justice system and suddenly we are able to see patterns and trends that can and should dictate policy for years.

4. Engage Your Community

Improvements to data collection, management, and release are only as strong as the will of communities to use the data. As such, engaging and querying communities whose data are being collected, analyzed, and released will provide a more comprehensive view of what types of information are going to be most meaningful in the pursuit of transparency and accountability. In turn, helping people understand what the data mean (and don't mean) and how they can be used is paramount to effective system reform.

II. With Data, We Can Make Smart Choices

Incarceration

One key finding among our data is that not only do states dif-
fer in how they administer justice, but counties within the same
state differ radically, as well. Which is to say: there really are no
national standards: the implementation of justice can often look
quite different, county by county, which has big implications for
policy efforts to decarcerate nationwide.

For instance, while there's been a push over the years to
decrease the use of jails and prisons for nonviolent offenders,
change looks very different in different jurisdictions.

Nonviolent Offenders

Consider data we have for seven states on nonviolent felony
offenders. The differences within and across these states were
notable, as seen in *Figure 6*: In Wisconsin, approximately 24% of
nonviolent felony offenders went to prison. In contrast, Alabama
sent 75% of nonviolent felony offenders to prison.

In these states, we also see an inversely proportional relation-
ship between sentencing rates for nonviolent misdemeanors and
nonviolent felonies. In other words, states that sentence a large
percentage of nonviolent felonies to prison also sentence a low
percentage of nonviolent misdemeanors to jail, and vice versa,
which raises questions about whether policies related to nonvio-
lent offenses and increased leniency are having the same effects
across case types.

In *Figure 7*, you can also see how different counties within the
same state handle these cases. With the exception of Connecticut,
six states showed a real spread between counties with the lowest
incarceration rates for nonviolent felony offenders and counties
with the highest.

Collateral Consequences: Unseen and Unquantifiable

These variations become more pressing when we consider the col-
lateral consequences of conviction and incarceration. Prison and
jail sentences, while effective in incapacitating offenders follow-
ing a criminal conviction, add punishments to an offender's sen-
tence following completion of a sentence. These collateral conse-
quences of conviction vary across jurisdiction, but often include
a loss of benefits, and even loss of child custody (see *Figure 8*). If
states are going to take away federal and state rights, they need to
be able to show the effects.

Voting rights and firearm rights are among the most common,

Fig. 6. PERCENTAGE OF NONVIOLENT MISDEMEANORS SENTENCED TO JAIL VS. PERCENTAGE OF NONVIOLENT FELONIES SENTENCED TO PRISON
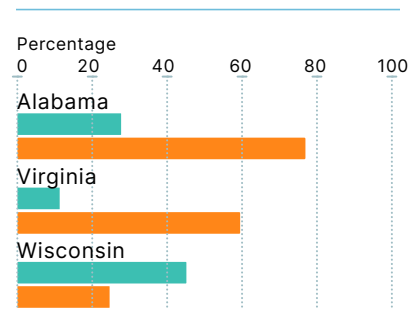
Fig. 7. LOWEST AND HIGHEST PERCENTAGE OF NONVIOLENT FELONY OFFENDERS SENTENCED TO PRISON VS. THE STATE AVERAGE
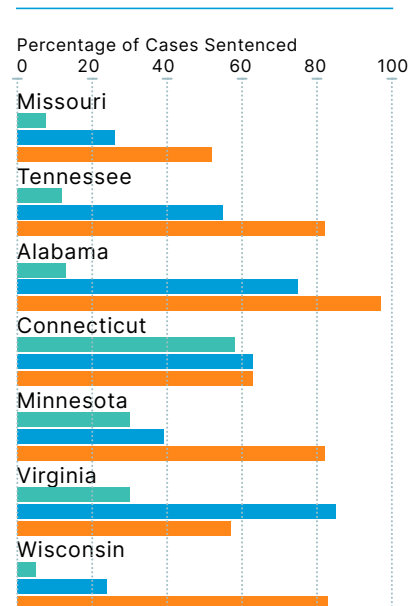
Fig. 8. COMMON LOSSES DUE TO CRIMINAL CONVICTION

DRIVER'S LICENSE
FIREARM RIGHTS
VOTING RIGHTS
CHILD CUSTODY RIGHTS
FOOD AND CASH BENEFITS
ADOPTION RIGHTS
RESIDENCY (NON-CITIZEN)
HOUSING ASSISTANCE
ADOPTION ASSISTANCE
JURY DUTY ELEGIBILITY
JOB TRAINING PROGRAMS
VETERANS BENEFITS

with at least 16 of the 20 states outlining their revocation in stat-ute during the years under review. Next common are the loss of access to certain licensures (e.g., health services, bartending), and a loss of child custody rights.

In at least 10 of the 20 states we reviewed, state statute dictates that individuals with a felony conviction lose their right, in some cases permanently, to some government assistance benefits that would otherwise help support families. With ongoing restrictions to employment, social support networks, and food and cash ben-efits, individuals are at a higher risk of violating their release, and possibly re-engaging with the system. For a more detailed and real-time list of collateral consequences across the country, see the National Reentry Resource Center.

Case Dismissals

Another criticism levied at the criminal justice system is the large cost to taxpayers. Politically, there is bipartisan agreement that the nation spends too much. Case dismissals are a good place to look when identifying where money is being spent. It's difficult to assess exactly how costly it is to bring charges that are ultimately dismissed, but a recent study by Human Right Watch consid-ered the cost of pretrial incarceration among Californians whose charges were ultimately dropped or dismissed, and determined that between six counties, a staggering $37.5 million was spent over the course of two years.[4]

With that in mind, we note wide variations in dismissal rates across fifteen states. The lowest dismissal rates can be found in South Dakota where 13.5% of cases filed between 2009 and 2017 were dismissed. The available data for Pennsylvania reflect a sim-ilar dismissal rate, with 13.7% of cases filed between 2009 and 2013 dismissed. In contrast, North Carolina shows our highest rate, dismissing nearly 46% of cases filed between 2009 and 2013. Our second highest dismissal rate can be found in Alabama where an average of 37.3% of cases were dismissed between 2009 and 2017.

Additionally, our analyses revealed a notable trend related to offense type: violent offenses are dismissed at a remarkably higher rate than other offenses (see *Figure 9*). In each of the fifteen available states, cases involving violent offenses were dismissed more frequently than cases involving property or drug offenses. In eleven of those states, violent offenses were dismissed at a higher rate than any other offense type.

In reality, cases may be dismissed for a variety of reasons, includ-ing but not limited to, a lack of probable cause or adequate evidence; a faulty charging document; an illegal stop or search; or a violation

Fig. 9. PERCENTAGE OF CASES DISMISSED; ALL OFFENSES VS. VIOLENT OFFENSES

Percentage

- All offenses
- Violent offenses
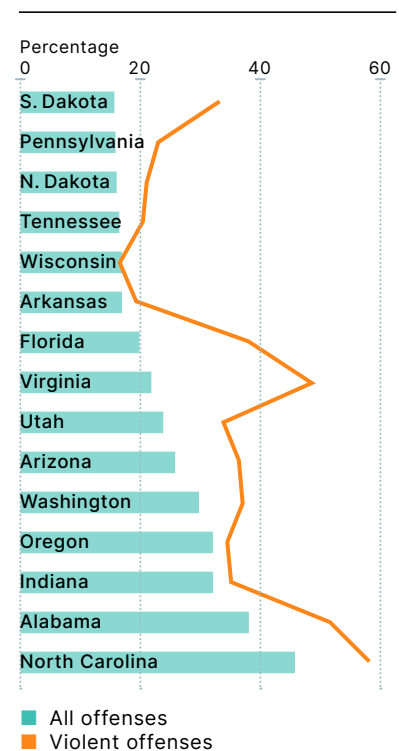
4 See: Human Rights Watch. (2017). *Not in it for justice: How California's pretrial detention and bail system unfairly punishes poor people.* Human Rights Watch. Found here.

of the right to a speedy trial. In some states, law enforcement are able to directly file charges, and a dismissal after filing is a prosecutor's tool to drop cases they otherwise would not have filed. Thus, the wide variation we find in dismissal rates at the state level might be reflective of a number of diverging practices at different stages, from biased policing strategies to valuable prosecutorial discretion. In some instances, case dismissals are a result of appropriate decisions to stop a case that would not result in, or that would be appropriately diverted from, a conviction. In others, case dismissals may signify an inability to properly screen out cases that need not be filed.

Therefore, high dismissal rates, in instances where these cases might otherwise have been rejected for prosecution, could cost taxpayers millions. As state courts continue to feel the impact of budget cuts resulting from the Great Recession, and as practitioners grapple with increasingly unmanageable caseloads and backlogs[5], courts and defendants may feel an extra burden—financial and otherwise—of processing cases that are ultimately dismissed. While the policy decisions that might result from knowing your county's dismissal rates may vary, the ability to compare dismissal rates to other counties' opens opportunities for knowledge transfer and increased resources.

Fees, Fines, and Who Can Pay Them

As the courts bear the financial load imposed by high dismissal rates, defendants bear the load of fees and fines. These fees and fines are often levied to fund the courts and other services. Seven of twenty states provided us with data sufficient to calculate the median amount of fees and fines imposed on individuals convicted of a crime. Notably, there are vast differences in how these costs are levied by states (*Figure* 10). Between 2009 and 2013, the median amount of fees and fines in Pennsylvania logged in at just under $1,300. Several counties in Washington and Pennsylvania had median amounts in excess of $2,000. In stark contrast, the median amount in Connecticut during this time was only $15.

A review of states' statutes suggests that the allocation of fees and fines also varies widely across states. In some cases, these dollars are distributed to the state or county treasurer, or to general funds, with subsequent disbursement at the discretion of local or state governments. However, in nearly every state where we have data, fees and fines are also used to fund specific programs or needs, including law enforcement training, public defenders' and prosecutors' offices, programs that support victims of crime, drug treatment programs, and several other programs intended to promote public safety[6].

Fig. 10. DISTRIBUTION OF FEES AND FINES WITHIN AND ACROSS STATES (2009–2013)

● Each dot represents the median for one county
— State medians: CT $15, SD $120, VA $216, AL $354, WA $412, WA $800, PA $1299
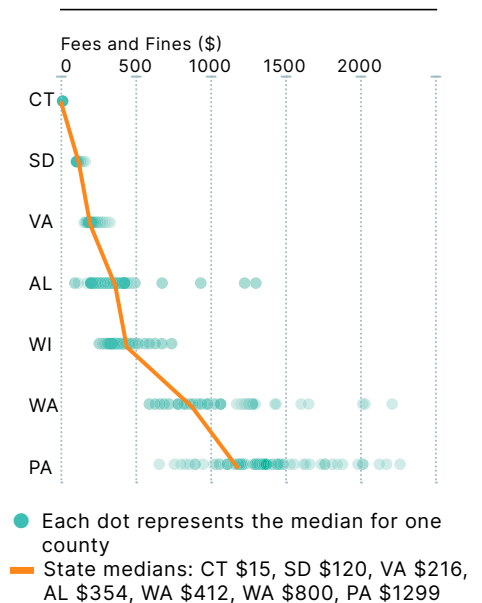
5 See: Graetz, M. (2014). Trusting the courts: Redressing the state court funding crisis. *Daedalus,* 143(3), 96-104. Found here.
6 A state-by-state list of programs that receive funding from court fees and fines can be found here on MFJ's website.

Many defendants are unable to pay their fees and fines, and programs that rely on such revenue may not receive adequate support. In Washington, between 2009 and 2013, over 53% of defendants were unable to pay their fees and fines, while around 30% of defendants were unable to pay in Wisconsin. These numbers point to a substantial amount of lost revenue. Furthermore, the percentage of defendants able to pay these costs varies widely on a county-to-county basis. In Yakima County, WA, for example, 71% of defendants failed to pay their fees and fines, compared to 12% in Wahkiakum County, despite the fact that these counties impose roughly the same amount of fees and fines (*Figure* 11). To the extent that fees and fines are collected and allocated locally, an uneven geographic distribution in the ability to pay may result in unequal support of programs among counties within a state.

Disparities

A disparity is an inequality, difference, inconsistency, or imbalance between groups of people, and may highlight policies or practices that might be implemented unfairly. Disparities can be caused by unconscious or conscious bias and from outwardly neutral policies and practices that in fact cause unequal effects based on race, sex, age, etc. Disparities, like most other findings, vary greatly by jurisdiction. And they matter for the obvious reason of being able to expose where inequity is thriving.

Race

We were able to obtain race data in 14 states. Based on those data, we found some degree of disparity in sentencing for nonviolent felonies in five states (see *Figure* 12). These data suggest that sentencing practices—that is, outcomes for defendants after arrest, charging, and conviction—still appear to be applied differently to similarly situated cases. These findings deserve more attention, by case type and defendant characteristics.

Sex

Of our twenty states, three provided sufficient demographic data to interpret the rate at which nonviolent felony cases were diverted by sex. In all three, female defendants received diversions at a significantly higher rate than male defendants between 2014 and 2015. In Tennessee, for example, cases with female defendants resulted in diversion 17.1% of the time. Cases with male defendants resulted in diversion at a rate just above half of that (9.2%).

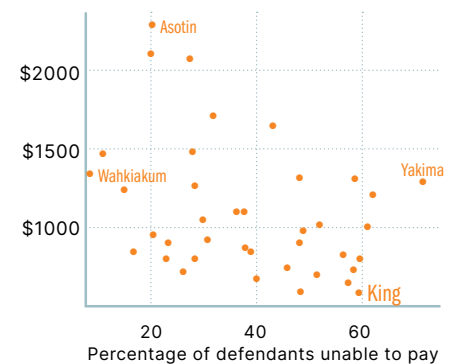*Fig. 11.* WASHINGTON STATE FEES, FINES, AND ABILITY TO PAY (2009–2013)

Percentage of defendants unable to pay

Fig. 12. NONVIOLENT FELONIES SENTENCED TO PRISON

Percentage

Florida (2012–2013)

Missouri (2012–2013)

Pennsylvania (2012–2013)

Virginia (2012–2013)

Missouri (2014–2015)

Virginia (2014–2015)

Wisonsin (2014–2015)

Virginia (2016–2017)

■ Defendants of color
■ White defendants
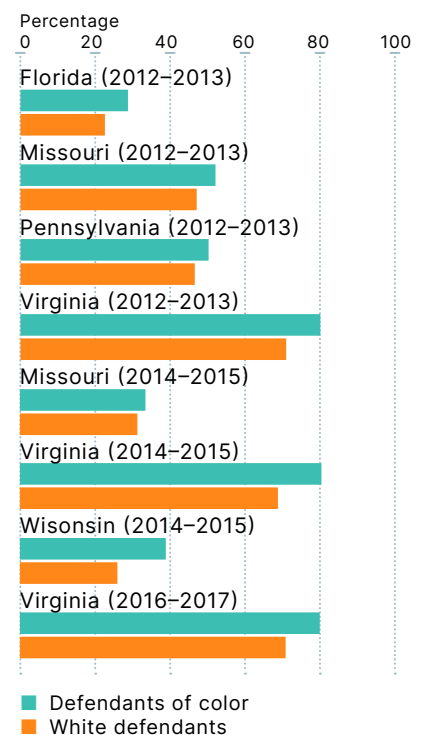
Fig. 13. SEX DISPARITY: DIVERSION FOR NONVIOLENT FELONIES

WOMEN   MEN

17.1%   9.2%
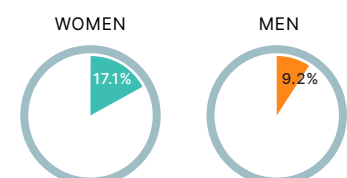
Indigency

Of our twenty states, three provided sufficient demographic data to interpret the rate at which nonviolent felony cases were diverted by indigency status. In Alabama, across cohorts, we found that indigent defendants who were charged with nonviolent felonies were between 26–31% less likely to be diverted pretrial than their non-indigent counterparts. Similarly, indigent defendants were more than 20% less likely to have their cases dismissed than defendants who were not indigent. This pattern is apparent through the point of conviction, where cases involving indigent defendants resulted in conviction more often by almost 20%.

Length of Time to Process

For how long it takes cases to resolve, we see significant disparity across many of the states where the information is available, using data from 2009-2013.

In Alabama, for instance, the median length of time to disposition for cases including defendants of color was 172 days, compared to the 160 days of white defendants (a disparity of 1.08 to 1, favoring white defendants). In Arkansas (2009-2013), the average number of days for whites was 200 days where for people of color the average was 226 days.

What's 26 days in the grand scheme of things? If these 26 days are spent detained while your case is processed, it may mean losing custody of your child, or your job. It may also mean 26 additional days your defense has to advocate on your behalf. At minimum, it represents 26 additional days of interacting with the system and carrying the stress of a case. The ramifications of these disparities may be profound.

WHAT TO DO WHEN THE DATA SUGGEST A PROBLEM?

Data like these should be used to rethink policy and reform from entry into the system through release. The data that are not available need to be collected and reported. The data that are available need to be explored and pursued. There is no shortage of research organizations, think tanks, local universities, and policy consultants to call when confronted with data that unearth disparities or practices that may benefit from the learnings of neighboring counties and states. Below are some examples of what might follow on the heels of seeing the kind of data we are able to make available:

1.
As a policy maker in Alabama, armed with data that shows some counties incarcerating nonviolent felonies at a rate nearly three times more than other counties, you are now equipped to investigate the variation and, perhaps, change policies that are driving these disparate outcomes across the state.

2.
In states with comparatively high dismissal rates (e.g., NC: 46%), there are opportunities to assess what's behind the rates, for better or worse, and reform police and prosecutor policies based on the assessment.

3.
In states where fees and fines range widely across counties (PA, WA), the question to be asked is why? Is it because the types of cases differ that much across counties, or does it have more to do with judicial discretion, afforded by law, in how to apply fees and fines? If the latter, what can be learned about the laws (or judicial practices) in states like CT, SD, and VA, where court costs are more uniform across counties?

4.
Why do we see disparities in sentencing as illustrated in *Figure* 7, and what steps can be taken to eliminate those disparities? Should education and training on unconscious bias be required of decision-makers — is training provided in similarly situated counties, and how's it working? Do the penalties written into law for certain offenses need to be reconsidered? Do judges or prosecutors have too much discretion in some instances? Can states collect data on sentencing to evaluate decisions across courts within a county?

BETTER, MORE COMPREHENSIVE DATA IS AN IMPERATIVE

Reliable and trusted criminal justice data are the gateway to making smart, informed decisions about policy. Over the course of collecting and processing data from more than 1,200 counties, we've learned that what we don't know—can't know—is staggering. Years and years of cases that can't be tracked. Outcomes we cannot contextualize in patterns or trends. Policy changes we aren't making for lack of consistent and compelling evidence that current policies are succeeding or failing. We've already experienced the consequences of having little to no data. A continued lack of data means new reforms whose effects we cannot gauge. And informed debates we cannot have.

The good news is that the data we do have open a way forward. And they make a decisive case for why improved data infrastructure—collection and management—is a must-have for the project of generating lasting system reform.

Fig. 14. THE DATA AND KNOWLEDGE THAT WE'VE COLLECTED IS LIMITED, BUT IT POINTS THE WAY FORWARD.
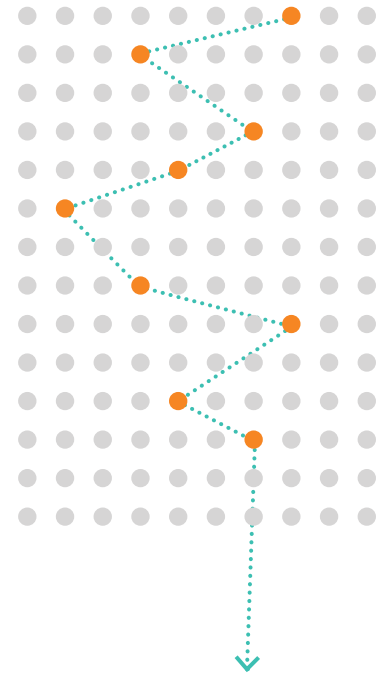
WHERE THE NATION NEEDS TO GO AND HOW MEASURES FOR JUSTICE IS HELPING

We are at work on three fronts to help solve the country's criminal justice data crisis:

1. Motivate data legislation and develop data standards
Because the country's data are messy, inconsistent, and often unavailable, the best path forward is to mandate data reporting standards and, in turn, to develop those standards. This is how we do it:
- Often the first step toward better data collection is knowing what data you have and don't. In 2017, we alerted Florida to its data gap and the upshot was a sweeping data transparency bill— the first of its kind. We embedded data fellows in two counties, where we piloted a strategy for bill compliance. Now, the state has a set of recommendations on how to standardize and effectively report on what the legislation requires.
- Per Florida, we now produce data landscape reports that notify state legislators of their data gaps. Our work in California helped spur a data bill there that resolves some data reporting problems.
- We have also launched a new state of the data "microsite" that tracks data infrastructure nationwide (all fifty states are coming

soon). Who's passed recent data laws? What are those laws? Where are the data housed? The microsite is a living overview of the country's criminal justice data mechanism.

- Finally, MFJ works with leading professional organizations to establish reporting standards and metrics that can be applied in all jurisdictions, including guidance on where jurisdictions may overcome hurdles to reporting. These partnerships include the National Center for State Courts National Court Open Data Standards (NODS) project, and the Bureau of Justice Assistance's Justice Counts project.

2. Equip communities and practitioners with their own data so they can actually see how they're doing and make good policy decisions as a result.

We are validating the importance of comprehensive, reliable data every day by making them available to the people who live the experiences the data represent.

In addition to our twenty states, we've developed a new way to see near-live data coming out of police, prosecutor, and court offices, and to make that data available in ways people can understand.

The project is called Commons; it's up and running in Yolo County, CA, and is soon to enter other markets in New York, Louisiana, New Mexico, and Florida.

3. Use the Commons Model to Inspire Changes in Court Data

If prosecutors and even the Department Corrections are offering up near live feeds of data for analysis, there is no reason that Courts can't follow suit. Judges need to take the lead on transparency, and join other system actors who are making their data transparent through various efforts throughout the country. We joined up with the National Center for State Courts to help get the National Open Court Data Standards (NODS) initiative up and running so that courts can standardize their data and make them available. The path is clear.

We challenge state lawmakers and the federal government to fund and modernize data infrastructure, mandate data transparency, and adopt national data standards.

For more on how the Biden administration can move forward on these recommendations, please see Arnold Ventures' report: Campaign for Criminal Justice Data Modernization.

Measures for Justice (MFJ) arms communities with their own data to solve for systemic problems in criminal justice. We do this by showing people what criminal justice looks like nationwide; helping to standardize and improve criminal justice data nationwide; and offering tools, services, and research to ensure people can use the data to best effect. We believe the only way our criminal justice system can improve is by monitoring its performance, isolating what works and what doesn't, and developing interventions based on fact. For all this work, data are critical.

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MEASURES FOR JUSTICE