



BALTIMORE BEHIND BARS:

How to Reduce the Jail Population, Save Money and Improve Public Safety

A Justice Policy Institute Report
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About the Justice Policy Institute

The Justice Policy Institute is a non-profit research and public policy organization dedicated to reducing society's reliance on incarceration and promoting fair and effective solutions to social problems.

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TO OUR READERS



Dear Reader:

Far more people in the United States spend time in jail than in prison. And while the impacts of prison have been the subject of study for some time, only recently have jails come under closer scrutiny. What the Justice Policy Institute and others have seen is that jails can be as destructive to people's lives as prisons: separating people from their families and communities; exposing them to trauma and disease; disrupting treatment, jobs, and education; and returning them to the streets ill-prepared to either establish or re-establish a successful life in the community. The difference is that when a person is in jail rather than prison, all of these impacts can occur while people are awaiting their day in court for an offense for which they have not yet been judged.

When we at the Justice Policy Institute (JPI) decided to examine why there were so many people in the Baltimore jail, we anticipated that we would find many of the same problems facing other jurisdictions. However, what we discovered was that due to the unique and complex nature of the Baltimore criminal justice system, not only are the reasons for the jail's overpopulation more difficult to unravel, the solutions will need to be more unique and complex as well.

The product of this multifaceted work is an unprecedented overview of the Baltimore criminal justice system and jail; an analysis of what is driving the jail's population; and finally, practical recommendations for all stakeholders, including the courts, the police, the healthcare/treatment system, the bail industry, the jail and Baltimore City itself. One conclusion that became clear was that Baltimore and the state of Maryland cannot build their way out of the problem of locking up such a high number of its residents through more or newer facilities.

In many ways, jails are like the canary in the coal mine: bloated jails are a symptom of systemic problems that have gone unaddressed. This is true in Baltimore, where the situation is complicated by the mix of jurisdiction and authority that has resulted in a lack of real accountability: everyone can point to someone else as a contributor to the number of people in the jail. With the highest percentage of the general population in jail of any of the twenty largest jail systems in the country, it is imperative that state and local leaders commit to a concrete goal for reduction of the Baltimore jail population, to be achieved on an aggressive timeline. This will require an exceptional level of collaboration given the multitude of entities that must be a part of the solution, and it will require considerable commitment and the expenditure of some political capital as well. But for the people of Baltimore, the stakes are too high to continue with "business as usual."

While this report is finished, our work in Baltimore and Maryland continues. JPI is planning a number of activities to follow up on this report, and we will continue to be an active part of the Baltimore Grassroots Criminal Justice Network. We are very appreciative of the support that we have received from the Open Society Institute - Baltimore for this work, as well as all those who generously shared their expertise and time to help us gain not just knowledge about the system and the jail, but a deeper understanding of the impact they have on people, families and the community of Baltimore. We hope this report will act as a catalyst for change. Implementing smart and effective policies will help create a safer and stronger Baltimore and have lasting benefits to both Baltimore and all of Maryland.

Sincerely,

A handwritten signature in blue ink.

Tracy Velázquez
Executive Director

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The Baltimore jail system is one of the oldest and largest¹ pretrial facilities in the country, holding around 4,000 people on any given day.² Despite recent, positive justice-related reforms in Baltimore and Maryland, the state's solution to these crowded and old facilities is to build two new facilities in the middle of a recession, without plans to close the old wings. These wings will be used to house people displaced by future capital projects in pre-trial detention in the jail and to expand the delivery of programs and services for adult men in the jail.³ It is past time for coming up with effective solutions that will create lasting reductions in the number of people incarcerated in the jail and long term gains in public safety. Before the state of Maryland spends millions of dollars to construct two new facilities for the jail, it and Baltimore City should develop and carry out a plan that will ensure that only the people who present a viable risk to public safety are held in the jail before their trial. Baltimore should be looking at innovative and evidence-based approaches to reducing the number of people going into and being detained in the jail, following the example of other jurisdictions around the country. The result will be a stronger and safer Baltimore for generations to come.

The Baltimore jail is one of the largest municipal jails in the nation. More than 73,000 people go through the Baltimore Central Booking and Intake Center every year and over 35,000 people are committed to the Baltimore City Detention Center annually.⁴ At the start of 2010, there were more than 3,600 men, women and children in custody, but the annual average is around 400 people higher, at about 4,000 people per day.⁵ Baltimore is not only the home of one of the 20

largest jails in the country, but it also has the distinction of holding the highest percentage of its population in jail when compared to the other 19 largest jails in the country⁶ (See appendix). And Baltimore continues to incarcerate its residents at alarming rates despite falling crime rates in the city;⁷ research does not support the idea that more incarceration equals less crime—it actually is the opposite.⁸ Furthermore, the policies enacted in this city have a dispropor-

tionate and lasting effect on communities of color as the majority of people arrested and incarcerated in Baltimore are African American.

Baltimore's criminal justice system and jail are structured differently than a typical county or city jail. Unlike other localities, the state of Maryland funds and operates the pretrial detention facilities in Baltimore, including the Baltimore jail. For this reason, initiatives that have worked in other jurisdictions to reduce the number of people in their jails may not be as effective in Baltimore. While counties and cities that pay for their own detention facilities have a financial incentive to limit the number of people in their jails, Baltimore City does not, and residents all over the state of Maryland pay for the often overcrowded facility at a cost of around \$150 million a year.⁹ Better and more cost-effective solutions are available to improve public safety and strengthen communities.

The Baltimore jail system is one of the oldest and largest pretrial facilities in the country, holding around 4,000 people on any given day.

Currently, Maryland is in the process of planning for two new facilities at the jail—one for youth ages 14 and older who are being tried as adults, and the other for women—at an estimated cost to taxpayers of \$280 million.¹⁰ Maryland is adding these facilities because there is currently not enough space for the services it wishes to provide and to create better conditions for the women and children who are incarcerated in Baltimore. The current wings and units do not allow for adequate services in the jail for these young people awaiting trial. In addition, deteriorating conditions and a lack of sight and sound separation between youth and adults held in the jail do not comply with federal mandates.

While nobody will challenge the need for a more updated facility for women and children who need to be detained for public safety reasons, evidence from other localities that have expanded their jails shows that the addition of new pretrial correctional facilities frequently eliminates the public will to reduce the number of people held in jail, despite the best of intentions. People who now are released either on bail or on their own recognizance may be locked up in these facilities in the future because more and better space is available. And other systems such as law enforcement may see additional beds as an invitation to fill them by arresting more people, even when crime is down in the city. This net-widening process can reduce the effectiveness of the pretrial system; people who do not need to be incarcerated to ensure court appearance and public safety would do better staying in the community pretrial so they can maintain support networks like family, employment and education. The people who are being held pretrial have not been convicted of the current offense and should only be held pretrial if there is a real risk to public safety. Reducing the number of people held in jail while awaiting trial will save money that can be redirected toward proven cost-effective public safety strategies, such as education and treatment for people who are either involved in—or at risk of becoming involved in—the criminal justice system.

Baltimore City and the state of Maryland recognize that Baltimore's criminal justice system faces a number of challenges and have taken steps in the right direction. In 1999, the Criminal Justice Coordinating Council (CJCC) was established, which is made up of all of the criminal justice agencies contributing to incarceration in Baltimore, including the courts, law enforcement, public defenders and prosecutors, treatment specialists, city administrators and state corrections officials such as the Commissioner of the Division of Pretrial Detention and Services. The purpose of the CJCC, which meets monthly, is to increase collaboration

between all of these agencies to ensure that systems are running effectively and working towards improving public safety. The CJCC itself has no authority over these City and State agencies, but rather facilitates discussions to make sure that every aspect of the criminal justice system and community is taken into account when decisions are made.

In addition to being part of the Criminal Justice Coordinating Council, the Maryland Department of Public Safety and Correctional Services has taken steps toward implementing more coordination between specific justice agencies in Baltimore. A number of Kaizens¹¹ held in the past year are important pieces in this collaborative process. Kaizen, which translates to “change is good,” resulted in a number of recommendations to streamline the pretrial process in Baltimore City, some of which will be discussed later, and all of which should result in a more streamlined and effective criminal justice

process to the benefit of all. But much more still needs to be done at both the state and local level to sustainably reduce the number of people behind bars in Baltimore.

The Justice Policy Institute is issuing this report to bring attention to the many challenges still facing the Baltimore criminal justice system and to offer recommendations on ways to reduce the number of people involved in this system, specifically the jail. As the largest contributor to the incarcerated population in the state of Maryland, it is important that reforms are made in Baltimore to ensure safer communities, reduce prison and jail populations, reduce costs to the state and the city and provide fair and equal treatment to all residents. Reducing the number of people in the jail and making it easier for people to re-enter society after serving time in the jail, will save money that can be reinvested in effective community programs that work to support public safety and healthy communities.

Who does what? Division of power and responsibility between the City and the State

The criminal justice system in Baltimore is complicated by the fact that the state of Maryland owns and operates the Baltimore jail through the Division of Pretrial Detention and Services, where all people arrested in Baltimore are taken for processing and possible pretrial detention. The segregation of authority and the impact each agency has on the number of people incarcerated in the jail is important to understand when making recommendations for improvement. All agencies contribute to the number of people in the jail in their own way and all of them can do something to have a positive impact on the jail population and Baltimore communities.

First, the number of people entering the jail is a result of police practices and policies, which are often influenced by City administration, and of course the law. Police bring people to the jail by arresting them, and the courts, including the State's Attorney's Office and commissioners, decide who stays in the jail pretrial by setting bail, refusing bail, releasing people on personal recognizance or releasing without charge. Both the courts and the jail are responsible for the time it takes to process someone in Central Booking (by law, less than 24 hours), but once committed, the overall length of stay of people in the jail falls on the courts, as they determine when people go to court.

The jail bears the responsibility of providing safe and humane living conditions for people in the jail, including services such as medical care and mental health and substance abuse treatment. Administrators at the jail also decide on the physical conditions of how people are released (with or without personal property and medication, for example) and at what time they are released. Both Baltimore City and the jail are responsible for re-entry services, which have an impact on the number of people returning to the jail; more services means fewer people returning to the jail. The Division of Pretrial Detention and Services has the responsibility of providing services inside the jail, like allowing space for mentoring and other programs. Baltimore City is responsible for providing opportunities and services for people when they are released to the community. Collaboration between these two agencies and re-entry services is vital to producing positive results for people leaving the jail. As all agencies play a role in contributing to the jail population, all agencies must work together to reduce the number of people in the jail while preserving and improving public safety.

Who is responsible?

POLICE

- Enforcement policies
- Arrests

COURTS

- Pretrial release decisions
- Court dates
- Diversion
- Processing in Central Booking

JAIL

- Processing in Central Booking
- Jail conditions
- Jail services and programs
- Re-entry

BALTIMORE CITY

- Law enforcement policies
- Re-entry
- “Pre-entry” services like employment, education and community-based treatment

WHAT HAS CHANGED SINCE MARYLAND TOOK OVER THE BALTIMORE JAIL? ▾



Summary: Understanding the Baltimore jail's past can help identify ways to improve its present untenable situation and identify reforms that will promote effective alternatives to incarceration and reduce its population sustainably in the future. The move from a city-run jail to a state-funded and operated facility had a significant impact on the way the criminal justice system worked in Baltimore. And the opening of the Baltimore Central Booking and Intake Center affected not only the number of people who could be incarcerated in Baltimore, but how people were booked and treated after arrest. It also influenced how many people are arrested for what offenses. Unlike the majority of jails in the country that hold more even percentages of people who are either pretrial or post-sentencing, the Baltimore jail is a true pretrial facility; nine out of 10 people in the jail are awaiting trial, compared to about two out of three in the rest of the country.¹² Determining how to reduce the number of people held pretrial in a safe and effective way can greatly reduce the jail population and associated costs.

The original Baltimore jail was built in the 18th century and replaced by a new facility in 1802. This facility was replaced in 1860 and has been expanded upon ever since.¹³ Today, the Baltimore City Detention Center consists of five buildings and has a capacity of around 4,000 men, women and children. In 1991, Baltimore City faced both a court order to reduce its jail population and a severe budget crisis that led to Governor William Donald Schaefer asking the state of Maryland to step in and take over administration of the Baltimore City Jail, which was renamed the Baltimore City Detention Center.¹⁴ One of the provisions of this takeover was that the State build a centralized booking facility, which was accomplished in November 1995 when the Baltimore Central Booking and Intake Center started accepting people arrested in Baltimore. After the State took over administration of the jail,¹⁵ the handling of people in the system changed dramatically, in

both promising and challenging ways. One challenge related to the separation of authority over the jail is that when the City is unhappy with some aspect of the jail's operations – for instance, the release process that can result in people being released in the middle of the night – the City can exert little pressure for the state facility to change its practices.

Shift to pretrial detention

With the shift to State management, the purpose of the jail also shifted: from pretrial detention and short-term sentences to an almost completely pretrial facility. Prior to the State taking over the Baltimore jail, people arrested and incarcerated in Baltimore were treated similarly to those in other jurisdictions: those held pretrial stayed in the detention facility unless they could post bail or were released on their own

recognizance, and those who were sentenced by the court to less than one year typically remained under City custody in the detention facility. Those who were sentenced to more than one year were transferred out of the detention facility's jurisdiction to a state-run Division of Correction prison.

Today, more than 90 percent of the people in the Baltimore jail are awaiting trial on the current charge.¹⁶ People who are pretrial have not been found guilty—are legally innocent—yet remain incarcerated due to any number of factors that will be explained in more detail later in this report. Once a person is found guilty and sentenced to prison, it is policy that if he is sentenced to state time of more than six months, he is transferred to a Division of Correction facility. However, for some people, the administrative task of transfer is not worth the effort, and they will remain at the jail until their release. Typically, these are people who only have a little time left to serve on their sentence either because they received credit for time served in the jail pretrial or because they received a short sentence. This can be dependent on the capacity of the jail—if it is overcrowded at the time officials may be more willing to transfer a person to another facility.

In contrast, most jails around the country will hold people pretrial and those who receive a sentence of one year or less. Almost two thirds (63 percent) of people in jails around the country are pretrial and the rest have already been convicted.¹⁷ So not only is the number of people held in the Baltimore jail higher than most other localities, it also holds more people pretrial than most places, providing a unique opportunity for reform, as there are more options available for pretrial release, such as diversion and community supervision.

Change in processing and arrest practices with the opening of Central Booking

Resources and processing

The Baltimore Central Booking and Intake Center (Central Booking) opened in November 1995 as a state-of-the-art booking facility that would provide an opportunity to increase coordination among different criminal justice agencies by increasing their proximity and information-sharing ability with up-to-date technology.¹⁸ Instead of booking people arrested in Baltimore at one of nine district police stations or lockups, now all adults are processed at Central Booking. Prior to the opening of this facility, each police station or lockup had its own staff to process people arrested in each district, and they would typically be held in these lockups for one to two days while awaiting transfer to the jail if they were not released on recognizance.

More than 90 percent of the people in the Baltimore jail are awaiting trial on the current charge.

One of the benefits of having all people taken to one place after arrest is that a central location can increase efficiency and the availability of services. For example, although adequate resources are still a challenge for the jail, better medical and treatment services are available at Central Booking than there were at each lockup. In addition, fewer resources are needed to staff each lockup. The State has also been more willing and able to invest resources into Central Booking than the City of Baltimore. For example, the state is currently funding an Offender Case Management System (OCMS) for all of its correctional facilities, including the Baltimore

jail. When fully operational, the OCMS will make it easier to keep track of people as they move through the system from pretrial detention to prison and release, which could help ensure people in the system who need treatment and rehabilitative services, receive them.

However, while there were many challenges with the previous system, such as a need for more staff and lack of resources, it also had its benefits, including a greater familiarity by local station personnel with the community and people going through the system. Staff in each district knew people who were repeatedly arrested, understood their cases and situations and were therefore able to make better decisions about charges and pretrial release, especially in low-level cases. Arguably, the new system allows for a more consistent approach to decision-making; however, without personal interaction, it is easy to ignore individual mitigating circumstances.

Arrests

The increase in space that came with the opening of Central Booking also had an impact on policing and arrests, as it created space to hold more people; Central Booking has the capacity to hold around one thousand people, in addition to the 3,000 people in the Detention

"The jail is just the place where the police drop people off."

Personal interview, Baltimore City Official, February 3, 2010

Center.¹⁹ With the district lockup system there was a finite amount of space available for police to hold people arrested in their district. When the space was filled, people either had to be released or fewer people needed to be arrested. This of course was not to say that people with serious or violent offenses were released or not arrested solely due to space issues. Instead, it

meant that law enforcement and the courts may have been more discerning in deciding who should be arrested and detained and who could be issued a citation or warning,²⁰ possibly resulting in fewer people being arrested and more people being released without charge or on personal. With the opening of Central Booking, Baltimore police had less incentive to maintain lower jail populations, as the number of people detained was no longer their responsibility or that of their employer, the City of Baltimore. In the words of one city official, "*The jail is just the place where the police drop people off.*"²¹ In this way and perhaps more so with the previous administration than the current one, police were more willing to arrest people for minor offenses, leading to more people being processed and detained.

A few years after the opening of Central Booking, under former Baltimore mayor Martin O'Malley's "tough on crime" stance, the Baltimore City Police Department made record numbers of arrests, many for minor and sometimes frivolous offenses, like loitering and open container violations.²² The American Civil Liberties Union (ACLU) is still in the middle of a lawsuit surrounding the number of "bad arrests" by law enforcement in the city.²³ In FY2004, more than 100,000 arrests were processed in Central Booking.²⁴ Nearly 22 percent—more than one in five people—arrested were released without charge.²⁵

Arrest practices are improving under the new police commissioner as he has made it clear that he is more interested in arresting people engaging in serious or violent offenses and gun violations than those engaging in more minor or "quality of life" offenses, such as loitering or trespassing. (This is not to say, however, that the police department is not still arresting people for quality of life offenses, and this is still happening in some communities more than in others.) In 2009, under Baltimore Police Commissioner Frederick H. Bealefeld III's command, the number of arrests processed in Central

Booking fell to around 73,000 and the percentage of people released without charge fell to around 13 percent.²⁷ In other words, there are fewer arrests being made and the remaining arrests are “better” in that they are for offenses likely to be charged by the State’s Attorney’s Office.

The total number of arrests in Baltimore City fell 25 percent from 2004-2009.²⁸ Overall arrests for violent offenses fell 4 percent during this time. In 2009, the police made more than 75,000 arrests in Baltimore City, including 975 arrests for robbery and 1,162 arrests for weapons possession. That year, the police made 802 arrests for prostitution, 1,591 arrests for larceny and nearly 24,000 arrests for drug offenses. Not all of the people arrested are currently incarcerated, but all of them were taken through Central Booking and spent up to 24 hours in its custody before being released or committed to the jail to await trial. Interestingly, despite the dramatic drop in the number of arrests processed in Central Booking, the number of people in the jail facilities in 2009 remained relatively constant, at about 4,000 people.²⁹ This could be due to a number of factors that will be discussed later, including court delays, fewer releases on personal recognizance, a larger percentage of people arrested for violent offenses and other reasons.

The overall focus of the Baltimore City Police Department has changed under Commissioner Bealefeld’s command, and recent federal community policing (COPS) money has been allocated in Baltimore to hire 50 new police officers for foot patrols, doubling the capacity of this patrol. It is the aim of the Police Department that these officers engage more with the community to help improve public safety and empower communities. However, as the Police Department looks to justify maintaining the higher level of staffing the potential for more arrests for low-level drug and nonviolent offenses could be cause for concern, which has been the case in other jurisdictions that have increased law enforcement resources.³⁰

“How many more innocent people have to be handcuffed, taken to Central Booking, strip searched, kept in crowded and filthy cells, and then released without being charged in order for justice and the rule of law to again have meaning for all Baltimoreans?”

*David Rocah, Staff Attorney
for the ACLU of Maryland²⁶*



Summary: Nearly 4,000 people are incarcerated in the Baltimore jail system on any given day. About nine out of 10 of them are pretrial, meaning that they have yet to be convicted of the offense for which they are being held and are still legally innocent. The majority of people in the jail are African American men, most of whom are under the age of 35. About a third of people are accused of violent offenses and 28 percent are incarcerated for drug offenses. Another 765 people are held on other nonviolent offenses. Additionally, about 500 people are incarcerated for a violation of probation; this number has been increasing over the last five years. With about a quarter of the people incarcerated at the jail being deemed the lowest security level, finding ways to reduce the number of “low risk” people held could alleviate frequent overcrowding and the use of “boats” (portable cots often set up in the gymnasium for overflow) when there are no more available beds. The addition of two new facilities without closing the ones formerly used for women and children will likely result in an increase in the jail population unless the City works to change its policies around pretrial detention.

The jail is frequently overcrowded.

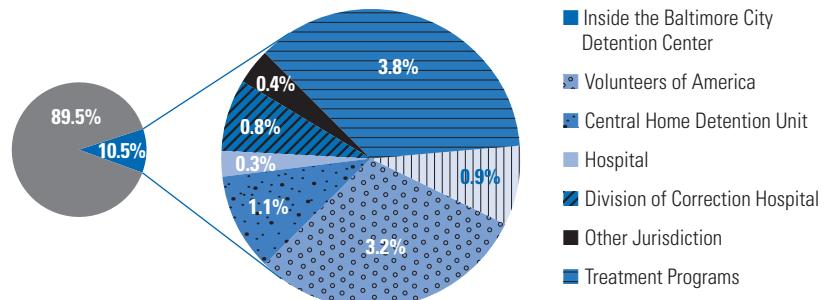
The Baltimore jail, like many jail facilities across the country, often operates at greater than 100 percent capacity. The capacities of Central Booking and the Men’s Detention Center are 895 and at 2,117 respectively. Both of these facilities were above capacity for the majority of 2009.³¹ The Women’s Detention Center, which has a capacity of 671 people, was well below capacity in 2009. Crowding can make it difficult to ensure humane living conditions and adequate services for people residing in the jail, most of whom are pretrial and have not been convicted of the crime for which they are being detained. The overuse of pretrial detention by the courts significantly contributes to overcrowding in these facilities.

The average number of people under Division of Pretrial Detention and Services (DPDS) custody

(which includes people incarcerated in Central Booking or the Detention Center or housed outside the jail in residential facilities like Volunteers of America) has dropped 4 percent over the past 5 years.³² The number of people held at Central Booking fell 19 percent since 2005, while the total number of people in the Detention Center increased 1.2 percent, largely due to the increase in the number of people being supervised outside the jail in other modes of supervision like home detention rather than an increase in jail population (from 234 people in FY2005 to 371 people in FY2009).³³

While the vast majority of people are housed inside either Central Booking or the Detention Center, about 12 percent of people in custody – 265 men and 33 women—were held outside the jail at the beginning of 2010.³⁴ These people may reside with Volunteers of America (VOA),³⁵ be in a community residential treatment program,

Nearly 90 percent of people in DPDS custody are housed inside the jail



Source: Division of Pretrial Detention and Services Daily Population Report, January 4, 2010

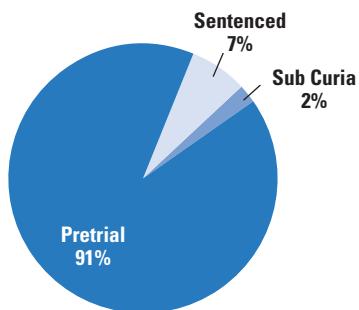
of the jail facility) and another 814 in Central Booking. Ninety-one percent of the people incarcerated are pretrial, meaning they have not been convicted of the current offense, and another 2 percent are in sub curia. On any given day, there are about 140 people awaiting transfer from the jail to a state Division of Correction prison.³⁸

serve their time on Saturdays and Sundays (“weekenders”), be in a Division of Correction hospital or be part of the Central Home Detention Unit (CDHU).³⁶

The majority of people in the jail are pretrial.

People incarcerated in the jail can be in one of three statuses: pretrial, sub curia³⁷ or sentenced. At the start of 2010, there were 3,642 people in Division of Pretrial Detention and Services custody; 2,828 in the Detention Center (298 of these men and women were in custody outside

9 out of 10 people in the jail are awaiting trial

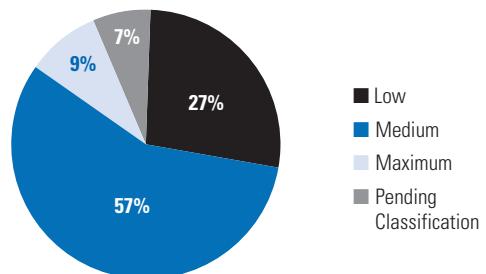


Source: Division of Pretrial Detention and Services Daily Population Report, January 4, 2010

A quarter of the people in the jail are classified as low security.

People committed to the jail are classified into three groups—low, medium or maximum secu-

27 percent of the people in the jail are classified as low security



Source: Division of Pretrial Detention and Services Populations Briefing for the Criminal Justice Coordinating Council, March 2010

rity. This classification is based on an assessment at intake that reviews their background and current offense to determine their appropriate placement inside the jail. Each floor and wing of the jail has a separate designation. As of February 2010, 27 percent of the people incarcerated in the jail were classified as low security and 9 percent were maximum security.³⁹ Since these classifications are based on assessments of risk,

the population classified as low security may be a good place to start reviewing people who can be released to the community pending trial with minimal risk to public safety.

Most of the people in the jail are under 35 years of age.

As of January 2010 there were 3,152 men in Central Booking and the Detention Center combined and 400 women incarcerated in the Women's Detention Center (WDC). An additional 90 youth (84 of them boys) were locked up in the jail. Youth as young as age 14 who are being tried as adults, primarily for violent offenses, are held in the jail facility rather than in a juvenile facility, but they are separated from the adults. The federal Juvenile Justice Delin-

quency Prevention Act requires that correctional facilities ensure sight and sound separation of youth and adults in the jail. As such, the Baltimore jail does this by having separate wings for these young people being held before trial. This mandate is also part of the instigation for building the new jail facility for youth, who are currently housed in small quarters, sometimes two to a cell.

Girls incarcerated in the Women's Detention Center have their own area, which is a dorm-style room with its own bathroom and laundry facilities. Boys have a wing that consists of two floors of rows of cells. These youth attend school while incarcerated; the Eager Street Academy is a Baltimore City Public School District high school that holds classes in trailers on the jail grounds.

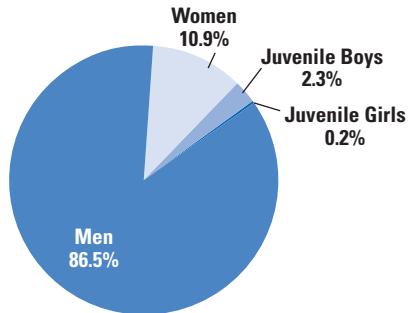
More jail beds for youth will lead to more youth in jail.

One of the two new planned jail facilities will incarcerate youth age 14 and over who are charged as adults, replacing the previous unit in the Baltimore City Detention Center. At the beginning of 2010, 90 children were being held in the jail because they are being tried as adults; but this number has been as high as 140 in recent years.⁴⁰ While the new juvenile detention facility may improve living conditions for these youth it will also increase the number of beds for youth to 180, or 230 at double occupancy,⁴¹ despite their being fewer youth in detention than any time in the last five years. City prosecutors have made it clear that they want to start trying more children as adults⁴² even at a time when the Baltimore City Police Commissioner is reporting that juvenile homicides were down 48 percent in Baltimore in 2009.⁴³

A recent report by the Baltimore-based Public Justice Center includes data showing that of the children who were held in the juvenile unit of the jail in the first six months of 2009, only 5 percent received a sentence of imprisonment in an adult correctional facility after being detained in the jail for five months or longer while awaiting trial.⁴⁴ Sixty percent were not even prosecuted, either because they were transferred to the juvenile system or the State's Attorney decided not to prosecute the case.

The opening of this new jail facility may give the prosecutors the ability and will to detain more youth in the jail than they were previously able to due to the increase in beds. A smaller facility with fewer beds can provide the opportunity for Baltimore and the courts to explore effective alternatives to incarceration rather than a reliance on the jail for youth who are charged as adults. And fully implementing the Juvenile Detention Alternatives Initiative (JDAI)⁴⁵ in Baltimore can free up space in the juvenile detention facilities run by the Department of Juvenile Services for youth who must be detained. Youth who are currently being charged as adults and detained in the jail may be better served in the juvenile justice system and their communities; if they must be detained for public safety reasons, a juvenile detention center is more appropriate.

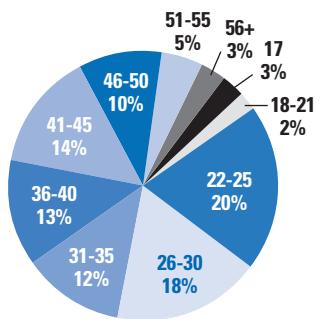
The majority of people in the jail are men



Source: Division of Pretrial Detention and Services Populations Briefing for the Criminal Justice Coordinating Council, March 2010

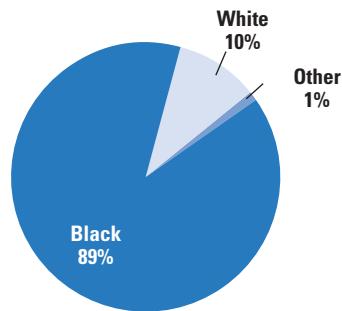
ment in certain communities, disproportionate allocation of resources, disparate treatment by the courts and lack of quality defense, amongst other reasons. The responsibility for alleviating these disparities falls not only on criminal justice agencies, but on society as a whole, and needs to be addressed appropriately through both policy and practice at all levels of government and the community.

The majority of people in the jail are under age 35, with the largest portion being between 18 and 25



Source: Jail Daily Extract, January 4, 2010, provided by Division of Pretrial Detention and Services

9 out of 10 people in the jail are African American



Source: Jail Daily Extract, January 4, 2010, provided by Division of Pretrial Detention and Services

African Americans make up the largest percentage of the people in the jail.

Despite making up only 64 percent of Baltimore residents, African Americans comprise 89 percent of the people held in the jail; currently more than 2,900 African American men are incarcerated in the jail. The reasons for the high number of African Americans in the jail are numerous, but studies show that it is not related to actual behavior differences.⁴⁶ In cities and states around the country reasons for the disproportionate number of African Americans in jail can include policing practices and enforce-

Most people in the jail are incarcerated for drug, property and technical offenses.

Not everyone who is arrested remains in the jail, as some are released without charge and others are released to await trial in the community. People in the jail are charged with a variety of different offenses. While offense-type is not the only, or even the most significant, factor in whether a person remains incarcerated, some offenses may yield more jail stays than others. Of the more than 3,600 people in the jail on January 4, 2010, about 28 percent, or more than 1,000 people, were incarcerated for drug-related

offenses.⁴⁷ Forty-four percent, or more than 1,500 people, were locked up for “serious or felony offenses” and nearly 500 were detained for violating their probation (VOP).⁴⁸ More than 50 people were detained for trespassing and another 26 (all women) for solicitation.

In the past five years, Baltimore law enforcement officials have increased the number of people arrested for violent and gun offenses and decreased the number of people arrested for drug and other lower level offenses like trespassing and driving on a suspended license, indicating a shift in focus to more serious offenses and less quality

of life offenses. In 2005, 25 percent of people in jail had a violent/person offense as their dominant charge; in 2009, this figure was 31 percent. Still, there are a significant number of people detained for offenses that may be better handled with pretrial community supervision or citations rather than arrests, including theft, trespassing and minor drug possession. Additionally, the number of people detained for technical violations of probation like missing appointments and failing drug tests increased during this time, a situation that could be addressed through means other than incarceration while waiting for judgment.

Most people in the jail are charged with nonviolent and drug offenses

Dominant Charge	Total Number (Jan 4, 2010)	CY2005 Average	CY2009 Average	%Change CY05-CY09
Drugs	1,005	1,532	1,160	-24%
Violent/Person offenses	1,203	1,004	1,218	+21%
Violation of Probation	495	437	596	+36%
Property	301	334	296	-11%
<i>Theft</i>	98	129	114	-12%
Handgun Violation	160	120	149	+24%
Failure to Appear	115	107	108	0%
Trespassing	54	53	42	-21%
Driving While License Revoked or Suspended	34	75	52	-31%
Sex Crimes	30	15	26	+73%
Solicitation	26	65	31	-52%
Other	205	249	251	+1%
TOTAL	3,628	3,991	3,929	-2%

Source: Analysis of Jail Daily Extract, January 4, 2010, provided by Division of Pretrial Detention and Services

HOW MUCH DOES MARYLAND SPEND ON THE BALTIMORE JAIL SYSTEM?



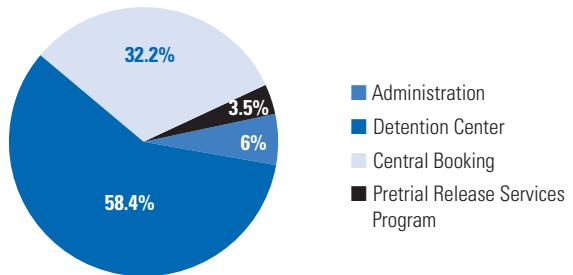
Summary: Prisons and jails can be some of the largest expenses for states and cities, and Maryland is no different. Unlike most local correctional facilities across the country, the Baltimore jail is funded and run by the State, so all Maryland residents pay for this facility, including facility and capital costs, staffing, medical and treatment costs, lawsuits and more. Finding ways to reduce the number of people in the jail could save Maryland taxpayers millions of dollars annually.

The State of Maryland will spend \$97 million on the Baltimore City Detention Center (Detention Center) in FY2011 and another \$53.6 million on the Baltimore Central Booking and Intake Center (Central Booking).⁴⁹ The Division of Pretrial Detention and Services (DPDS), which includes the Baltimore jail and pretrial release services, consumes about 13 percent of the total Mary-

more's jail facilities.⁵⁰ Only 3.5 percent of this spending goes to the Pretrial Release Services Program, which supervises people in the community while they await trial.

The total Division of Pretrial Detention and Services budget increased 74 percent in the last decade; the Pretrial Release Services Program spending increased at a much slower rate—up 46 percent from FY2001 to FY2011.⁵¹ The majority of the increase in spending has gone to the jail (Central Booking and the Detention Center), as incarcerating people in these facilities can be extremely costly. The Maryland Department of Budget and Management estimates that it costs \$100 per day to hold one person in the Detention Center and \$159 per person per day in Central Booking.⁵² In comparison, providing pretrial release services in the community costs significantly less. JPI researchers estimate that costs of the Pretrial

90 percent of the Division of Pretrial Detention and Services budget goes to the Detention Center and Central Booking

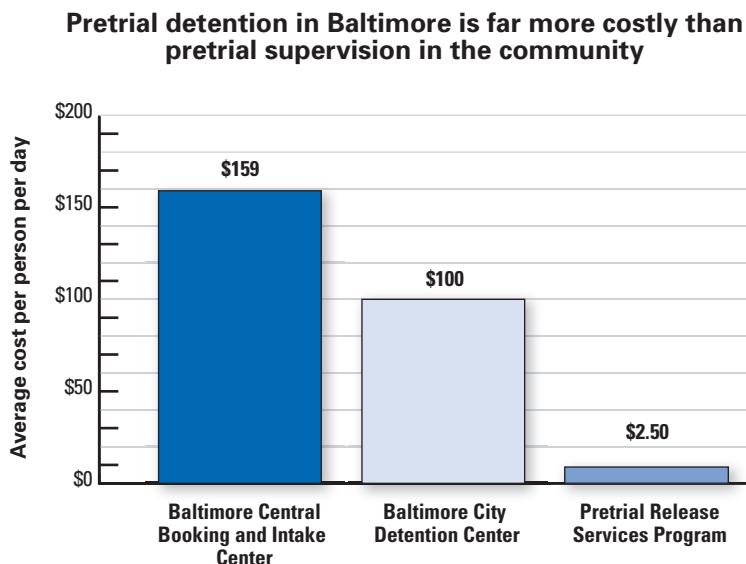


Source: Maryland Department of Budget and Management, *FY 2011 Proposed Operating Budget Detail, Volume II, Public Safety and Correctional Services* (Annapolis, MD: Maryland Department of Budget and Management, 2010) <http://dbm.maryland.gov/agencies/operbudget/Documents/2011/Proposed/pubsafcor.pdf>

land Department of Public Safety and Correctional Services budget (\$1.3 billion). Ninety percent of DPDS' budget goes to Balti-

Release Services Program at only \$2.50 per person per day.⁵³ Releasing more people to pretrial supervision, where people can maintain ties in

the community, will reduce the number of people in these facilities; this in turn can have lasting cost savings benefits to Maryland. Moving just 1,000 people from the Detention Center to the Pretrial Release Services Program for 30 days, which is the average amount of days until trial, could save Maryland \$2.92 million per month.⁵⁴

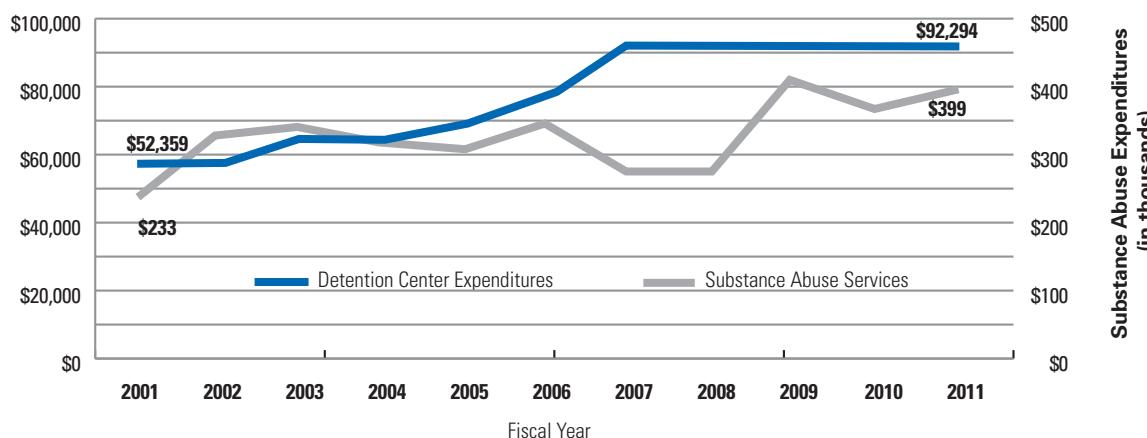


Source: Maryland Department of Budget and Management, *FY 2011 Proposed Operating Budget Detail, Volume II, Public Safety and Correctional Services* (Annapolis, MD: Maryland Department of Budget and Management, 2010) <http://dbm.maryland.gov/agencies/operbudget/Documents/2011/Proposed/pubsafcor.pdf>

The increase in spending at the jail has not been equally distributed across services that benefit people incarcerated there. Despite the estimated 2,500 people in the Baltimore jail with a substance abuse problem,⁵⁵ funding for substance abuse services in the jail fluctuated over the last 10 years, and did not keep pace with the rate of general spending for the Detention Center or the number of people incarcerated. The Maryland budget allowance for substance abuse services in FY2011 is \$398,655, down about \$10,000 from just two years ago.⁵⁶

While treatment in the community is still more effective and less expensive than treatment in a correctional facility,⁵⁷ providing quality treatment in the jail does still impart a public safety benefit and could be an effective tool for reducing recidivism. Prioritizing funding for these services may lead to fewer people incarcerated in the long run, resulting in fewer costs. And people who are able to overcome substance abuse problems may be better able to become productive, tax-paying members of their communities, an additional economic benefit.

Funding for substance abuse services has not increased at the same pace as funding for the Detention Center



Source: Maryland Budget Books, FY02-FY11, <http://dbm.maryland.gov/agencies/operbudget/Pages/OperatingBudget.aspx>

WHAT HAPPENS WHEN SOMEONE IS ARRESTED IN BALTIMORE?



Summary: Criminal justice processes vary in each city, county and state and can sometimes be confusing to both those in the system and people studying it. Understanding the process of booking, pretrial detention or release, court and sentencing is important for identifying where in a system changes could be made to make the process more efficient and fair. Baltimore's Central Booking and Intake Center is a unique facility. Since everyone arrested in Baltimore is booked at this location, understanding what happens when a person is arrested and brought to this facility, from the point where they walk in the door to pretrial release or court, is critical when determining where system reforms are most needed.

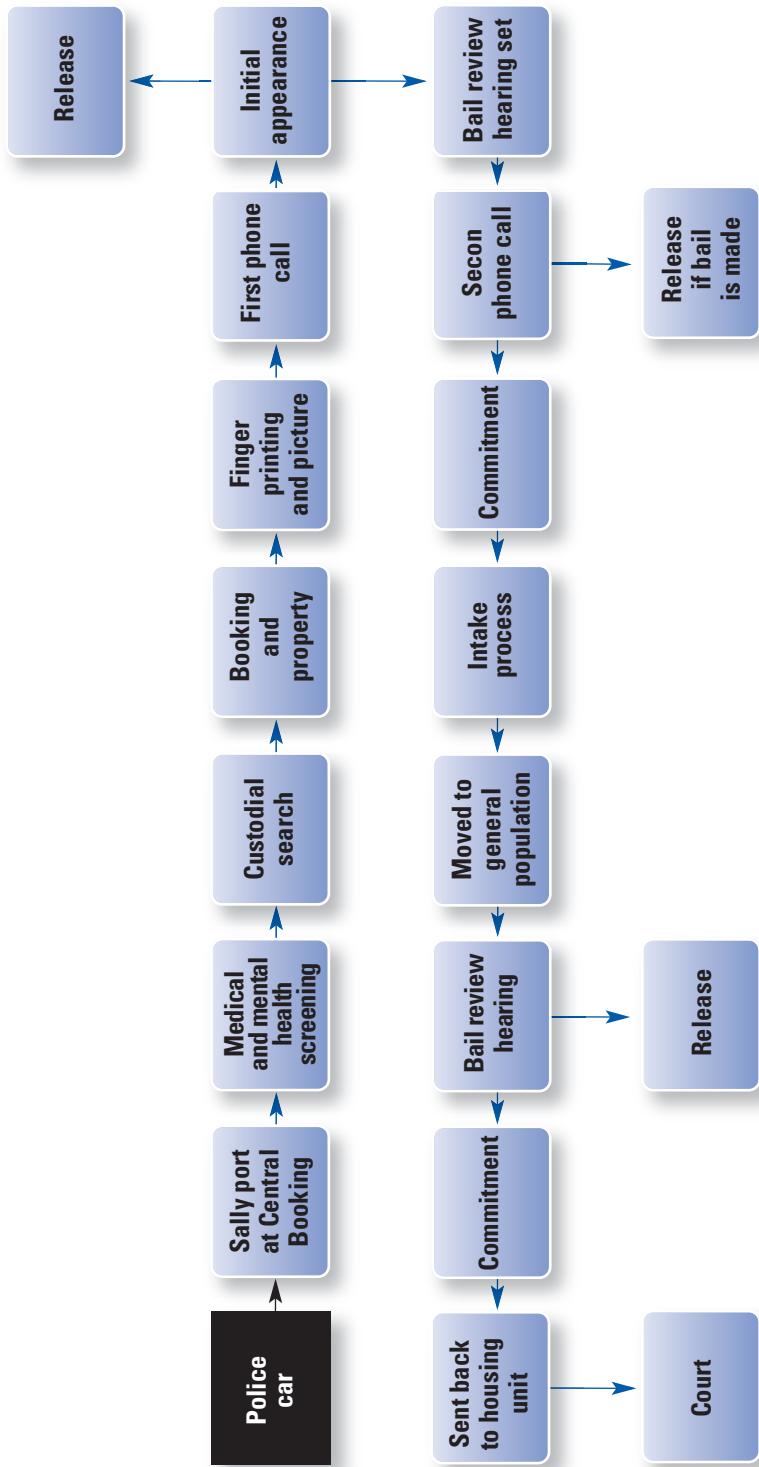
The Booking Process

A person arrested by a police officer in Baltimore is given a bar-coded wristband and is taken to Central Booking.⁵⁸ At Central Booking, he is screened for medical or mental health conditions that would prevent him from withstanding the possible 24 hour booking process;⁵⁹ those that do not receive a wristband by the arresting officer are provided one based upon the booking type. If he has a medical issue that must be taken care of immediately, he is taken to a nearby hospital by the arresting officer until he is well enough to return to Central Booking for processing. If he has a severe mental health problem that may make it difficult for him to withstand the booking process, he will not be accepted into Central Booking and will be returned to the arresting officer and possibly sent to a local emergency room or mental health institution.

In 2007, then 22-year-old Michelle was arrested after getting into a fight with another young woman and taken to Central Booking. She didn't know it at the time, but she would be spending the next nine months in jail awaiting trial. After arriving in Central Booking, Michelle was placed in a cold, crowded cell with more than 10 other women to go through the process of booking. There wasn't enough room for everyone to sit, so many women were standing or sitting on the floor. Women were vomiting on the floor or in the one toilet in the cell and others were trying to sleep by leaning on the stranger next to them. Michelle recounts feeling anticipation every time she was moved along to a different part of the booking process, such as fingerprinting or seeing the commissioner, just because she wanted to get out of that cell. She spent almost 24 hours in Central Booking that day. When she finally saw the commissioner he was "rude" and "had an attitude." Michelle was not offered bail. The realization set in that she was not going to be released from the jail that day, or any day soon.*

*Michelle's name has been changed to ensure her privacy. Michelle was personally interviewed by the author of this report.

What happens when someone is arrested in Baltimore?



After the person completes the initial screening, he is moved to a bench on the wall to wait for a search and is advised that he is allowed one layer of clothing and that his personal items will be inventoried into “regular”, “valuable”, “cash” and “identification” property types. Next is a custodial search where he will surrender his belongings and is searched for contraband such as weapons and drugs. Staff provides him with a property receipt for the inventory and both parties sign an

acknowledgement. He is then handcuffed and chained to the wall next to a booking station and waits to be seen by the booking agent. The agent conducts a booking interview, and he provides the agent with his personal information and hands over his property for storage for the remainder of the process. He is then moved to another area for positive identification via live-scan technology—electronic fingerprinting and digital photograph (mugshot) for his file. This

Meanwhile, downstairs in the charging room...

While people are upstairs being booked, the State’s Attorney’s Office (SAO) is busy reviewing cases downstairs. As of 2000, the SAO charges people arrested with the crimes, whereas previously it was the arresting officer. The SAO staffs the “charging room” 24 hours a day, seven days a week and decides what charge is appropriate based on the police report and whether people should be charged based on the offense and likelihood of conviction. If the SAO decides to charge someone, they ask the Division of Pretrial Detention and Services (DPDS) to build a file for the person by checking their criminal history to see if they have any outstanding warrants or detainers, if they are on parole or probation or if they are tagged for the Violence Prevention Initiative (VPI). (See text box on page 41.)

Once the case is adequately reviewed, the State’s Attorney’s Office (SAO) can choose to make a recommendation to the commissioner for release or a certain bail amount based on the charges and criminal history. The SAO can also charge someone with an offense without making bail or release recommendations to the commissioner. Finally, the SAO may choose not to charge someone with the arrested offense. In some cases, such as open container violations, urinating in public and disorderly conduct cases, the SAO may determine that an offense is “abated by arrest,” meaning that the arrest itself was sufficient to stop the act, and may release the person after he is booked and his record is clean of any outstanding warrants.

If the individual has a VPI tag or is flagged for their offense or criminal history, the SAO may decide to review the case in the “War Room” before making a recommendation to the commissioner. The aim of the War Room is to carefully review the cases of people involved in violent or serious offenses to make more informed decisions as to their safe release to the community pretrial. The Inter-Agency War Room Coordination Project started in 2004 and is a multi-agency effort to identify people with a history of violent behavior who are arrested in Baltimore. The Division of Pretrial Detention and Services, the Division of Parole and Probation, the Baltimore City Police Department and the State’s Attorney’s Office are all involved in the War Room review process.

From October 1 to December 31, 2009 the War Room reviewed 15,234 people arrested in Baltimore City, 748 of whom were considered “Violent Repeat Offenders” or VROs.⁶¹ Of these people, the SAO made 646 (86 percent) bail recommendations (which may include a bail amount or a recommendation not to offer bail) to the commissioner.⁶² In the other 14 percent of cases, the SAO did not make a recommendation and the pretrial release decision was left up to the commissioner.

process is done every time he is arrested, regardless of frequency. If he is arrested for certain offenses, mostly violent or burglary offenses, he also has his DNA collected through saliva.⁶⁰ He then receives his first opportunity to make a phone call and is placed in a holding cell with other people awaiting a meeting with the on-site District Court Commissioner.

When the on-site District Court Commissioner calls for the person being booked to attend the initial appearance hearing, he is staged accordingly in one of four separate rooms where the commissioner sits behind glass. At this initial appearance hearing, the commissioner reviews the current charge(s), the factual allegations, potential sentence, criminal history report and the State's Attorney's Office's (SAO) recommendation, if provided, and shares this information with the person who was arrested. This hearing is the first opportunity for the person arrested to plead his case before a judicial officer of the court and occurs within 24 hours of arrest. The initial appearance typically only includes the commissioner and the person awaiting decision.⁶³ The commissioner may ask about the person's family, residence and employment background and might ask about his ability to afford bail.⁶⁴

The ultimate decision of pretrial release is up to the commissioner, taking into account all provided information in the case file and any recommendations from the SAO and is often based on the person's responses and demeanor in the hearing. At this time the commissioner will advise him to seek legal counsel if the charges are not dropped or declined by the SAO. The commissioner can release someone without charge following the SAO's decision, release him on personal recognizance or choose to set bail or not offer bail, thereby requiring pretrial detention. Initial hearings typically last just a few minutes.

Once a person is charged, he leaves the room and is afforded another phone call; this call is often used to request money for bail, ask for

pickup when released or to call a lawyer. If he is released without charge or on personal recognizance or makes bail and has no detainers⁶⁵ or other holds, he is moved to another set of cells near the release office to wait for the file to be processed and for his property to be released. If he receives a "no bail" amount, meaning that he is not offered release through a bail bond, or if he cannot post bail due to a lack of funds, he is committed to await the bail review hearing and receives another phone call.⁶⁶

By law, all people must be booked within 24 hours.

The entire booking process typically takes around 18 hours on average,⁶⁷ but can be as short as four or five hours for simple cases with no outstanding warrants or records where the SAO declines to charge, or as long as 24 hours. The booking processing times vary based on a number of factors, including but not limited to how many people need to be booked and the availability of allied agencies like the prosecutors and the courts that provide the necessary resources to ensure timely processing. By law, all people must be booked within 24 hours.

Someone committed to the jail goes through the intake process, which includes a strip search, shower, admissions kit and bed assignment and are taken to general population or specialized housing as deemed necessary. Here he is also assessed for security level and program assignments by a Classification Unit Officer. People who are classified as "high risk" based on their offense, criminal history and other factors may be housed in the protective custody unit. People with serious health needs are moved to the medical infirmary units, and people recommended to drug treatment by the judge are sent to a separate treatment wing that will be discussed later. Pregnant women who are to stay in custody pending trial are housed in the maternity dorm once they reach the third trimester.

The person next appears before a reviewing judge via video broadcast within 24 hours or the next court session (court is closed on weekends). He has the option of having counsel, often a public defender (who has an office inside Central Booking), at his bail review hearing. The purpose of the bail review hearing is to review the initial bail set by the commissioner and allow the person being charged the opportunity to provide information that might argue either for outright release or a lower bail amount. There is also an opportunity at this stage for the court, prosecutor, lawyer, family of the individual and Pretrial Investigators to present information to increase or decrease the bail amount or recommend release on recognizance.

Pretrial Investigators work under the Pretrial Release Services Program of the Division of Pretrial Detention and Services. As soon as a person is charged, these investigators begin the process of verifying and gathering information. They investigate all people awaiting proceedings in the courts and provide the judges with verified

information regarding the person's ties to the community and special problems such as alcoholism, substance abuse or residential placement needs. They may speak with families, employers and community members about the person being charged to garner information that may be helpful in making recommendations to the courts regarding pretrial release or detention.

If the person is not released or cannot make bail after this hearing, he is committed to the general jail population to await trial, which can mean either the Detention Center or Central Booking, depending on population levels. The process of booking and moving someone to the general population usually takes about seven to 14 days from the time of arrest, but can also be longer, depending on the number of people in the jail. If there is no room in the Detention Center, people may stay in one of the three towers of Central Booking until trial, and perhaps longer if they receive a short sentence that would not warrant a transfer to the Detention Center or to a Division of Correction prison.

Debate: Should people have lawyers available at the initial appearance hearing?

Although not required by law, some counties allow lawyers to assist people at their initial hearing before the commissioner.⁸¹ A class action, right-to-counsel lawsuit has been filed under *Richmond v. District Court* to allow people to have counsel at initial appearance hearings, but no decision has been made by the court at the time of this publication. In addition to the constitutional issues surrounding whether people are entitled to a lawyer at the initial hearing, the current debate is also related to logistics: how many resources would be consumed by providing counsel at this stage, would it be cost-effective for Baltimore City to provide this service, and what kind of difference would it really make in terms of individual outcomes of people who go before the commissioner and the number of people in the jail? Also, how much additional pretrial investigative staff and funding would be needed, and how much extra time would people be held in Central Booking while waiting for the process? These questions are still awaiting answers and if the resolution results in a change in policy it may have an impact on the number of people who are detained pretrial in the jail.

JPI has not completed an analysis of this practice or reviewed whether other states or localities provide lawyers at initial appearance hearings for this report. Baltimore courts should thoroughly review this policy and compare it to other jurisdictions to see if providing counsel could positively impact the number of people in the jail.

HOW DO PRETRIAL PROCESSES AND POLICIES AFFECT THE NUMBER OF PEOPLE IN JAIL?

V



Summary: Pretrial detention and release policies affect not only the number of people who are in the jail at any given time but also the outcomes of individual cases and ultimately, the jail and prison populations in Maryland. Increasingly, people awaiting trial are held in the jail until their court date rather than released to await trial in the community. Today, more than half of the people who arrive at the jail after being arrested are committed to the jail to await trial. A number of factors are considered when deciding whether to release someone pretrial and what bail amounts to offer, if any. Another set of factors play a part in who is able to post bail to be released, including the use of commercial bail bondsmen. As all of these pieces factor into the number of people incarcerated in the jail, it is important that the courts review their pretrial release policies to make sure that the least restrictive methods of pretrial supervision are being used to ensure court appearance and public safety.

At a person's initial appearance, the District Court Commissioner has four options:

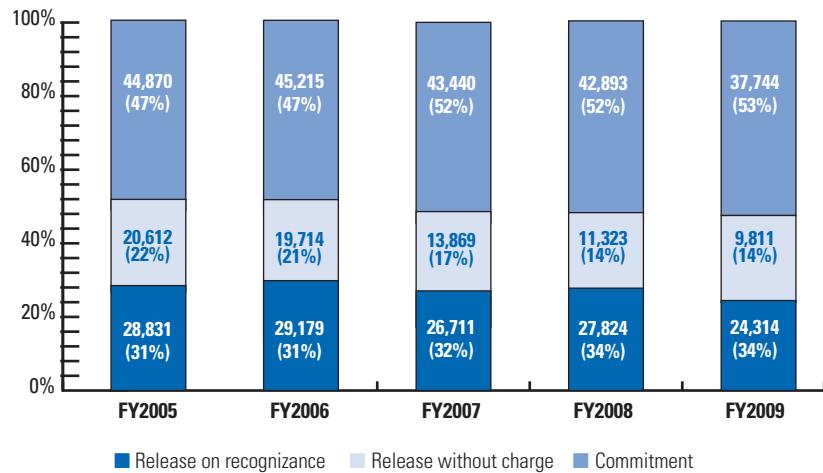
- release the person without charge if the State's Attorney's Office decides not to prosecute;
- release the person on their own recognizance, meaning that he is still being charged with the offense but will await trial in the community without a bail requirement;
- set a bail amount for pretrial release; or
- not offer bail, resulting in the person being held in the jail pretrial.

The decision to release someone pretrial is based on two main criteria: the likelihood that the person will return for trial⁶⁸ and whether he is a threat to public safety.⁶⁹ A third but not as frequent consideration involves the likelihood that the person will interfere with witnesses or victims in the case.

In the last five years, the number of people processed in Central Booking dropped 23 percent. Of the people who are booked, around 33 percent are released on personal recognizance, and about half of all people are committed to the jail to await trial.⁷⁰ The number and percentage of people released without charge has dropped rather dramatically, from 22 percent in FY2005 to around 14 percent in FY2009. This drop could be for a number of different reasons, including a change in focus of the police department that directs resources toward more serious offenses.

More than half of the people who arrive at the jail after being arrested are committed to the jail to await trial.

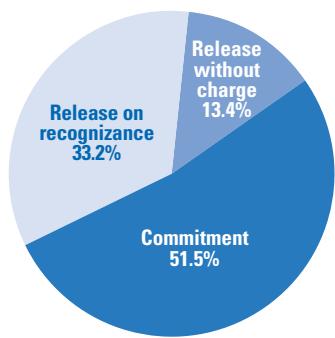
The percentage of people being released without charge has fallen since FY2005 while the total number of bookings fell



*Percentages may not add up to 100 due to rounding.

Source: Division of Pretrial Detention and Services Populations Briefing for the Criminal Justice Coordinating Council

In FY2009, more than half the 73,326 people booked were committed to the jail



Source: Division of Pretrial Detention and Services Populations Briefing for the Criminal Justice Coordinating Council

Bail has a significant impact on the number of people in jail.

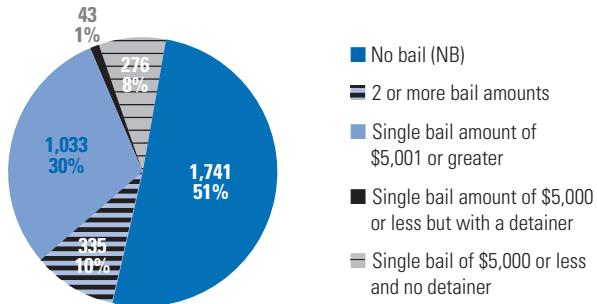
Bail is an amount of money that a judge may require be paid to the courts to gain pretrial release. Usually courts require 10 percent of the total bail amount in cash for someone to be released if the person has a surety bond posted for the total amount. (Bail bondsmen charge a

non-refundable fee for this service.) The money is refunded by the court if they return for their trial; if they don't return, the person or entity posting the bond is liable for the full (100 percent) amount of the bail. A person can also use property to post bail if the property value, less any mortgages or liens, has a value greater than or equal to that of the total bail. In the case of small bail amounts (\$2,500 or less) a person can

post a cash bail of 10 percent without a bail bond or collateral.

Over the last five years, bail amounts have been steadily increasing, making it more difficult for more people to afford bail-secured pretrial release. The number of people being held for "low bails" (\$5,000 or less) fell 31 percent over the last 5 years, despite a relatively stable jail population.⁷¹ At the start of 2010, 30 percent of people were incarcerated on single "high bail

More than half of the people in the jail were not offered bail



Source: Jail Daily Extract, January 4, 2010

amounts” of \$5,001 or more, while 8 percent of people were being held on “low bail” amounts of \$5,000 or less with no detainers.⁷² At the start of the year, 276 people were residing in the jail

because they could not post a low bail amount of \$5,000 or less. At the same time, more than half (51 percent) of the people in custody were not offered bail on at least one of their charges.⁷³

How is bail decided?

“Financial conditions other than unsecured bond should be imposed only when no other less restrictive condition of release will reasonably ensure the defendant’s appearance in court. The judicial officer should not impose a financial condition that results in the pretrial detention of the defendant solely due to an inability to pay.”

American Bar Association, Criminal Justice Section Standards, Standard 10-5.3(a)

Initial bail amounts are set by District Court Commissioners in Central Booking, sometimes following recommendations by the State’s Attorney’s Office (SAO). Court commissioners are appointed by the Administrative Court Judge and receive training on the process, but are not required to be lawyers or have any sort of certification or background in criminal justice.⁷⁴ The judge makes the ultimate decision on bail during the bail review hearing, but the commissioner has the initial ability to release someone on personal recognizance or set a bail amount. While in some cases the commissioner’s decision is influenced by the State’s Attorney’s recommendation, she is not required to accept these recommendations. Statistics show that during the bail review, the judge changes the decision of the commissioner in less than a fourth of the cases.⁷⁵ In other words, commissioners bear the primary responsibility for deciding who is released on personal recognizance, who receives bail or who is held without bail.

Commissioners are given a case file for each person who comes before them who has been charged with a crime. This file should include a criminal history report with any outstanding cases or warrants and the current offense information. The commissioner may ask the person a number of questions in the initial hearing that will supplement the information in the file and help her determine the appropriate release option, including the person’s ability to pay. But the commissioner is not required to take into account all information in the file and can base her decision on a number of different factors.

As there is currently no standard that regulates the bail amount a person receives for any given offense, identifying which offense typically receives which bail amount is impossible. For example, shoplifting charges do not always carry the same bail amount. It seems logical that bail amounts would be higher for more serious offenses, but this is not necessarily the case, and arguments can be made both for and against this blanket practice. Research from the Department of Justice on jails across the country shows that African Americans and Latinos receive higher bail amounts than whites, indicating possible disparate treatment by judges when setting bail.⁷⁶ However, this study did not distinguish between offense types. Considering all of the different factors that the courts must consider when deciding whether to set bail, looking at each case on an individual basis before making the decision can be an appropriate practice when administered fairly.

Data from the Division of Pretrial Detention and Services shows that there are still people detained for low level offenses and on low bail amounts in the Baltimore jail. As of February 17, 2010 about half of the people in jail, almost 1,800 people, were not offered bail and therefore will remain in the jail until their court date.⁷⁷ Seventy six people in the jail had total bail amounts (single or multiple bails) adding up to \$1,000 or less with no detainers, such as outstanding warrants, or additional charges that were not offered bail. These 76 people are charged with offenses like trespassing, theft, driving on a suspended license, prostitution, failure to pay child support, minor drug charges and violations of probation. People are most likely to remain incarcerated on these low bail offenses because they do not have the small amount of money necessary to secure their release.

People living in impoverished communities are the most likely to find that money bail is beyond their financial capacity. The Pretrial Release Project at the University of Maryland (UMD) conducted a study of bail review hearings in five Maryland counties, including Baltimore City, and found that 75 percent of people who were expected to pay a bond believed it would be “very difficult” or “difficult” to provide the money; and 70 percent of respondents indicated that by paying bail they would be unable to afford other important costs like rent, utilities or groceries.⁷⁸

Because even a short stint in jail can disrupt a person’s employment, education and housing and exacerbate existing health problems (or create new ones), it is essential that people are moved through the system and released in a timely manner. According to the UMD study, for those surveyed who could not post bail, their

incarceration meant that 25 percent would lose their job and 40 percent would lose their home.⁷⁹ A study by the Center for Poverty Solutions found that while 63 percent of homeless people in Baltimore owned or rented a house prior to their incarceration, only 30 percent had permanent housing when released.⁸⁰

On February 17, 2010, 76 people were in jail on bail amounts of \$1,000 or less

Total Bail Amount*	Number of people in jail
\$100-250	25
\$251-500	18
\$501-1,000	33
\$1,001-2,500	61
\$2,501-5,000	127
\$5,001-7,500	45
\$7,501-10,000	75
\$10,001-15,000	54
\$15,001-25,000	109
\$25,001-50,000	217
\$50,001-75,000	89
\$75,001-100,000	102
\$100,001-250,000	190
\$250,001-500,000	104
\$500,001-750,000	28
\$750,001-1,000,000	13
\$1,000,001 +	3
NO BAIL	1,791
Detainer**	223
Total number of people pretrial	3,307
<i>Sentenced</i>	257
Total number of people in jail	3,564

*Total bail amount may include multiple bails for that one person. People who have multiple charges, one of which has a NO BAIL set, will be included in the NO BAIL number, not the other bail amounts.

**Detainers are when a person is being held by another jurisdiction or agency. People who were being held pretrial and had detainers were included in the Detainer total not under individual bail amounts, but were included in the sentenced category if they were already sentenced.

Source: Jail Daily Extract, February 17, 2010

Debate: Should Baltimore abolish commercial bail?

The commercial bail industry is made up of private, for-profit entities that collectively and individually have significant influence in the pretrial detention-release decision process.⁸² People in jail hire bail bondsmen when they cannot afford to post bail. The person in jail, or someone on his behalf, pays a bail bondsman a non-refundable fee—at least 10 percent of the bail amount—and the bondsman will post bail for them with the commissioner. It is the bondsman’s decision who he takes on as a client, as it is his money at risk if the person does not return to court. By law, if the person does not return for their court date or within a 90 day grace period, the 10 percent in cash and the 90 percent collateral posted for release by the bondsman belongs to the court. In action, however, this is rarely the case. In fact, statistics show that bondsmen only pay about 5 percent of the bond when one of their clients doesn’t show up to court.⁸³ Courts in states like California and New Jersey are owed hundreds of millions of dollars by bail bonding companies.⁸⁴

The bail bond industry’s lobby has been able to stop legislation in Maryland that would more closely regulate its business. Indeed, bondsmen have worked to overturn legislation that would require judges to let people know that they didn’t need a bail bond to post a 10 percent bail if the bail amount was \$2,500 or less. They strongly oppose any alternative pretrial release programs that rely on mechanisms other than money bail to ensure people return to court, as this would hurt their profits.⁸⁵ Even when judges in Maryland offer people a 10 percent refundable cash bond from the courts for low bail amounts, bail bondsmen are still being used to pay this amount, undermining the whole reason for offering this option. If bondsmen were actually ensuring that people appeared in court, this may not be as much of an issue; however this is not the case.

Evidence suggests that the court system is compensating for commercial bail bonding practices by setting higher bails. A recent National Public Radio series on the bail industry found that nationally, likely due to the commercial bail business and the ease with which some people can get out of jail with a bondsman’s help, judges tend to set bail at rates as much as 10 times higher than the amount they believe people can afford to pay a bail bondsman. For instance, if a judge thinks \$1,000 is likely to bring a person back to court, he will set bail at \$10,000.⁸⁶ The result of such a system is that poor people remain in jail, while people with more assets are released to await trial in the community. People with less money at their disposal often cannot afford to post bail themselves (despite having the money refunded when they attend court), or even afford to pay a bail bondsman the 10 percent non-refundable fee needed for them to post their bail. The problem of bail inflation further puts poor people at a disadvantage because they may be less likely to have a lawyer or know their rights around bail.

As it stands now, bail bondsmen are the de facto decision makers on who is released from jail. Eliminating commercial bail in Baltimore may lead to more fair and effective release practices. People who receive high bail amounts due to the seriousness of their offense may be more likely to remain incarcerated, while people with lower level offenses who previously could not afford the bondsman's nonrefundable fee may be released, freeing up jail space and allowing people to maintain employment and community connections while awaiting trial. Eliminating commercial bail would level the playing field for people whose bails are set by the courts and may lead the courts to lower bail amounts, knowing that people must come up with the money or collateral on their own. This way the courts, not a private, for-profit company, would decide who is released and who remains incarcerated prior to trial.

In addition, other ways exist besides money bail to ensure people make their court appearances. Research does not support the commercial bail industry's assertion that money bail is the most effective way to ensure a person's return to court. In addition to examining whether the commercial bail industry should be dismantled, states such as Maryland should consider whether money bail itself is a system that should be minimized or scrapped altogether.

Due to the corruption often involved in commercial bail, which Baltimore has seen its share of,⁸⁷ four states have already eliminated it completely—Illinois, Kentucky, Oregon and Wisconsin.

- **Illinois** set a precedent for other states with its automatic 10 percent cash alternative. This option allows people to post 10 percent of the bail in cash, but directly with the court instead of a bail bondsman. Maryland now only allows this for low bail.
- **Kentucky** passed a series of laws in the 1970s regulating and then eliminating commercial bail practices because of corruption and violent incidents involving bounty hunters.
- **Oregon** followed suit in 1973 after the discovery of a kickback scheme in which jail officials were paid off by bail bondsmen to gain quicker access to people in jail.
- **Wisconsin** eliminated commercial bail in the late 1970s, replacing the practice with a more effective pretrial release system. This system forces judges to consider people's ability to afford bail, and to set financial bail only when extremely necessary. States like Wisconsin that have developed alternative pretrial release programs rely on recognizance and unsecured collateral bonds instead of commercial bail.⁸⁸

People can be safely released pretrial and without bail.

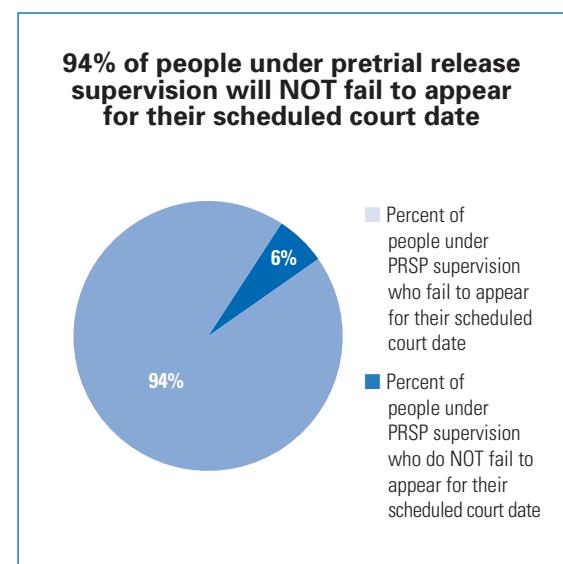
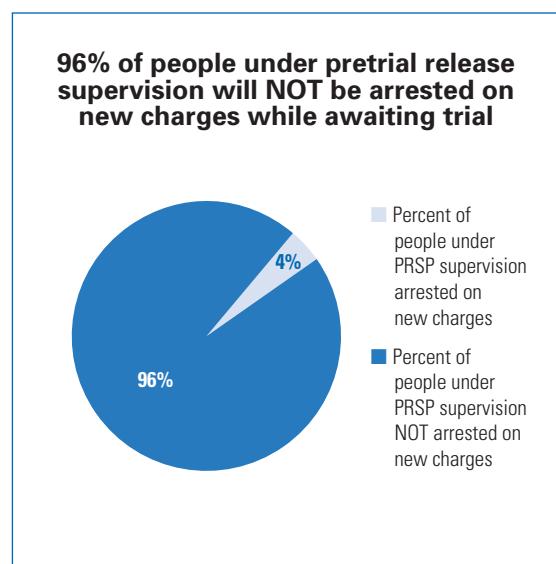
The Pretrial Release Services Program (PRSP), which is a part of the Division of Pretrial Detention and Services, currently supervises around 1,100 people daily who are referred by the judge for community-based supervision in Baltimore.⁸⁹ Not everyone released pretrial will be under supervision. This program monitors people to ensure that they go to court and follow the terms assigned by the judge, which may include things like drug treatment and regular meetings with their pretrial agent. Of over 50,000 people screened annually, the Pretrial Release Services Program supervises and monitors approximately six or seven thousand of them for whom the court orders pretrial release. At trial or in subsequent proceedings, the pretrial agent reports to the court on the person's compliance with the terms of pretrial release. These compliance reports are used for sentencing decisions and, in some instances, plea bargaining negotiations.

The Pretrial Release Services Program has a very high success rate as measured by the percentage of people under their supervision who make their court date. Ninety four percent of people who are under the supervision of this program

show up for court; this percentage is significantly higher than the national average of 88 percent.⁹⁰ In addition, just 4 percent of people under supervision will be arrested on a new charge while awaiting trial, compared to 18 percent nationally.⁹¹

Pretrial release supervision is a common practice across the country, with many localities expanding and improving upon these services due to overcrowding and excessive spending on their correctional facilities. Supervising someone in the community through the Pretrial Release Services Program is considerably less expensive than keeping them incarcerated in the jail (\$2.50 versus \$100 per day, respectively).⁹² Pretrial supervision also provides a number of advantages over incarceration:

- Supervision protects the public by reducing the risk that people under supervision will engage in illegal behavior.
- Supervision gives pretrial officers the means to enforce conditions ordered by the court, such as those requiring persons to perform community service or seek treatment.



Source: Maryland Department of Budget and Management, *FY2011 Operating Budget, Budget Book, Volume II, Public Safety and Correctional Services*, pages 676-677. (Annapolis, MD: Maryland Department of Budget and Management, 2010) <http://dbm.maryland.gov/agencies/operbudget/Pages/OperatingBudget.aspx>

- Supervision may provide referrals for substance abuse treatment for people who need it.
- As an alternative to incarceration, supervision allows people to live with their families, hold jobs and be productive members of society.
- Supervision may provide referrals for mental health treatment to people who need it while awaiting trial and reduces the decompensation that many people with mental illnesses experience during incarceration.
- Supervision may provide referrals for educational or vocational training that boosts people's capacity to earn a living.⁹³
- Supervision can demonstrate to a judge that a person will be able to stay in the community without engaging in illegal behavior, possibly making it more likely that they will receive a sentence of probation over incarceration.

Court date notification systems can be an effective tool for reducing the number of people who don't show up to court.

People can miss their court date for myriad reasons that are unrelated to an unwillingness to appear, ranging from lack of transportation, being unsure what is expected of them or just plain forgetfulness. The Pretrial Release Services Program has been effective in reducing the number of failures to appear (FTA) for people under its supervision, but for the thousands of people who are released pretrial without supervision, FTAs may still be a challenge without a reminder of court date. People kept in jail for FTAs are not generally considered to be a risk to public safety and keeping them in detention is a drain of public resources (the Baltimore jail currently holds over 100 people whose most serious charge is failure to appear).⁹⁴ Other localities have successfully implemented court date notifi-

cation systems that may be even more cost-effective than the Pretrial Release Services Program and show promising results.

**Multnomah County, Oregon—
Court Appearance Notification System**

Beginning in May of 2005, the Multnomah County, Oregon Circuit Court began implementing an automated dialing system called the Court Appearance Notification System (CANS) to remind people to appear at their court dates with the aim toward reducing failures to appear (FTA) at court hearings. With CANS, a computer system calls people up to three times before each hearing and a 30-second, pre-recorded message reminds them of the time, date and location of their court appearance. In the first two years of the program alone, failures to appear in Multnomah County dropped from 29 to 16 percent, representing a nearly 45 percent decrease in the number of people who didn't show up for court.⁹⁵ The

program, which was allotted \$40,000 in funding when launched in 2005, is estimated to save up to \$6.4 million worth of staff time each year.

The Court Appearance Notification System is estimated to save up to \$6.4 million worth of staff time each year.

**Jefferson County, Colorado—
Court Date Notification Program**

In 2005, the Jefferson County, Colorado Criminal Justice Strategic Planning Committee launched a ten-week pilot project in which a staff person calls those facing traffic or misdemeanor charges to remind them of their court dates.⁹⁶ The caller in the Court Date Notification Program not only provides reminders of court dates and notifies people who failed to appear (FTA) of their resulting warrants, but also fields questions from callers that would normally go to court clerks, gives directions, looks up other court information, forwards calls to other appropriate agencies, and generally allays the fears of people who may be intimidated by the

criminal justice system. She is also able to help identify people who are already incarcerated to report to the courts so that an FTA warrant is not issued, saving court resources. The pilot program resulted in a 43 percent reduction in the failure to appear rate and was so effective that the planning committee approved the creation of a permanent program. In its first six months, the program reduced the FTA rate of the targeted population from 23 to 11 percent. Approximately 425 FTA warrants were avoided in this six month period as a direct result of the program and saved judges, clerks and police officers over 1,100 hours of work.

Jefferson County's evaluation of the program showed that direct contact with the person going to court led to FTA rates as low as 7 percent, compared to the national average of 12 percent.⁹⁷ These numbers demonstrate the importance of getting accurate contact information from people, calling during appropriate hours and expanding the program to include more live callers. Given the program's early success with limited resources, the Criminal Justice Strategic Planning Committee estimates that a fully staffed program has the potential to reduce the number of FTA warrants by 3,100 per year.

While cost estimates are not available for implementing these programs in Baltimore, it is evident that in these two counties the benefits outweigh the costs of such programs. Using a similar system could reduce the number of people who fail to appear in court simply by serving as a reminder. This would in turn reduce the amount of time that judges spend issuing bench warrants and law enforcement spends looking for people with outstanding FTA warrants. Finally, it would reduce the number of people in the jail who are being held without bail because they have an FTA on their record.

Increasing lengths of stay are contributing to overcrowding in the jail.

Court dates are typically set around 30 days after arrest but can be as far away as 120 days or more depending on the offense, especially if it is a felony charge; if a person is committed to the jail and doesn't post bail he could be there for at least a month awaiting trial and likely even longer. In addition, postponements of court dates, which will be discussed in more detail later in the report, are relatively frequent and can add months and sometimes years to a person's pretrial jail time.

The average length of stay for people in the jail is 38 days; this number has increased over the last five years, up from 33 days in 2005.⁹⁸ This average length of stay includes people who are released within a few hours from Central Booking and people who spend more than two years under jail custody. This increase in the length of stay may not seem like much, but when five extra days are added to the tens of thousands of people who cycle through the jail, costs accumulate quickly. If the 37,744 commitments to the jail last year each stayed on average 5 fewer days at \$100 per day, Maryland taxpayers would save over \$18.8 million.⁹⁹ Additionally, this increase in length of stay may be a contributing factor in why the number of people in jail has remained constant despite the drop in arrests.

A number of changes to policies and practices in the jail system could have a positive impact on the number of people held in the Baltimore jail, the costs associated with pretrial detention and the outcomes of people who are charged with an offense.

Recommendations:

- 1. Identify low-risk people at the start.** The State's Attorney's Office should review low-level arrests in addition to more serious ones and make recommendations on pretrial release. Identifying people early in the process who can be safely released pretrial can help reduce the number of people in the jail.
- 2. Expand pretrial release options outside of money bail.** Baltimore should identify and implement means other than money bail to increase the number of people released to await trial in the community. As money bail discriminates against people with fewer resources and contributes to less people being released despite being low-risk to public safety, examining alternatives to money bail could result in more effective practices that reduce both failure to appear rates and the number of people held in the jail on low bail amounts.
- 3. Increase the use of Pretrial Supervision.** Baltimore should release more

people to be supervised in the community by the Pretrial Release Services Program. This program is less expensive than incarceration and the results are even better than the national average. Expanding this program could save money, reduce the jail population and reduce the number of people who fail to appear at court.

- 4. Remind people to go to court.** Baltimore should consider implementing a court date notification system modeled after effective programs in other jurisdictions. These systems are shown to reduce failure to appear rates and save staff time and money.
- 5. Reduce time between arrest and court.** Baltimore should reduce the length of time between arrest and court date. Every extra day that a person is incarcerated while awaiting trial costs Maryland taxpayers an average of \$100. Speeding up the process, while maintaining fair legal practices, can significantly reduce the number of people in the jail at any given time and reduce costs.

HOW DO COURT SYSTEMS AFFECT THE NUMBER OF PEOPLE IN JAIL?

V



Summary: Baltimore City has both a district court and a circuit court. District Court covers misdemeanor and felony cases, although it primarily hears small claims and minor violations. Circuit court is a state trial court with a number of different jurisdictions which hears more cases related to serious crimes. Both courts have an impact on the number of people held in the Baltimore jail. Despite innovations in court processing in recent years, the courts are still clogged with too many cases and postponements are still causing too many people to spend too much time in jail pre-trial. In addition, fast-tracking of some cases may be inadvertently widening the net of who is involved in the criminal justice system by encouraging people to plead guilty, thereby avoiding lengthy jail time prior to their day in court. While this practice may get some people out of jail faster, it also provides lifetime consequences for those who may accept a guilty plea not because of the merits of the charges but the need to return to their family and life responsibilities. Baltimore should evaluate its court processes and work to reduce the time from arrest to court date so people spend less time in jail awaiting trial.

District Court

Baltimore City has five District Courts that cover both misdemeanors and felonies and also deal with civil claims. If a case that has been tried in the District Court is appealed, it moves to the Circuit Court for retrial. For felony offenses and criminal cases that could result in three or more years of imprisonment and/or warrant a fine of \$2,500 or more, the jurisdiction of District Court coincides with that of the Circuit Court. A clear distinction between these two courts is the absence of a jury in District Courts.¹⁰⁰

Typically, court dates are set 30 days after arrest, and many people who either can't make bail or are not offered bail will remain in jail until this

time. Due to the large number of cases falling under the jurisdiction of the District Court, Baltimore developed a series of options, some of which are included here, to fast track some of these cases to save court time and reduce the number of people held pretrial for extended periods. Other notable court programs include the new Specialized Prostitution Diversion Program and the Marijuana Diversion Program.

The Early Resolution Court is a Baltimore City high-volume specialty court that is the part of the District Court designed to handle cases where diversion such as community service and/or drug education and treatment might be appropriate.¹⁰¹ This court was created under Martin O'Malley's tenure as mayor of Baltimore City as a response to the high number of "nuisance" or "quality of life" cases (like littering,

Early resolution court process of District Court



loitering or sleeping on park benches) clogging the court under his administration's crackdown on these offenses. The type of cases the court was set up to handle include: where the police officer issues the citation with an assigned court date; people who are released pretrial and qualify for referral to community service; the First-Time Offenders Diversion Program; and other cases which are deemed appropriate.

The State's Attorney's Office (SAO) determines who is eligible for the court. As described in more detail below, people can be sent to the court through declinations by the SAO, referral to the Early Resolution Court for people who have been released pretrial and referral to the Quality Case Review and Early Disposition Court for people who remain incarcerated prior to trial.

1. Declinations

The quickest way to resolve an arrest is if the State's Attorney's Office (SAO) reviews the arrest and decides not to charge. These declinations often occur when the case is weak, there is a lack of evidence, when prosecutors feel that the offense was abated by arrest (meaning that the arrest was sufficient in stopping the act) or for any other reason. In 2009, of the more than 50,000 arrests reviewed by the SAO in District Court, about 22 percent were declined.¹⁰² If the arrest is not declined it can be reviewed for one of the other two parts of the Early Resolution Court.

2. Quality Case Review (QCR) and Early Disposition Court

Quality Case Review was established in Central Booking in 1996 and merged with the Early Disposition Court in 2002.¹⁰³ The QCR is intended to help free up bed space in the jail by releasing people whose arrests can be easily and quickly closed. Only people who will remain incarcerated until their trial date and who are represented by a public defender are eligible for QCR. Those chosen for QCR are generally people with nonviolent, victimless or misdemeanor charges such as drug possession, disorderly conduct and misdemeanor theft and vandalism.

For the Quality Case Review (QCR), the State's Attorney's Office and the public defender review daily the list of people who have been in Central Booking for at least three days, and the two agencies bargain pleas on eligible cases. During the QCR, if the arrest is found to be unlikely to warrant a prosecution or if there is not enough evidence to convict, or if a plea agreement is reached by both parties, the case is scheduled for Early Disposition Court. At the Early Disposition Court the judge can accept the dismissal or plea and close the case, often resulting in the release of the person being held in the jail. Alternatively, if the judge rejects the plea or dismissal, or a plea agreement is not reached by both parties, the case is forwarded to the District Court for traditional court processing. The Early Disposition Court is held weekly in a special court inside Central Booking (Part 40), and the cases scheduled under this docket are usually closed within 3 – 7 days of arrest.

In 2009, 1,824 people were eligible for a QCR, of which 693 were resolved (adding up to 938 cases, since some people have multiple arrests), resulting in an estimated 13,623 pretrial bed days saved (averaging 9.35 days from arrest to disposition).¹⁰⁴ At \$159 per day for holding a person in Central Booking, the use of the QCR can have a significant cost-saving result for Maryland.

Public defenders may advise some clients to refuse to accept a guilty plea through the Quality Case Review process, because there is a chance that their case will be dismissed at court or they will be found not guilty. If they do not plead and are not found guilty, they avoid a conviction that could impact an existing probation status, as well as the myriad collateral consequences of a criminal record. However, if a person would like to have their case expedited and potentially return to their community, family and job faster, he may accept the terms of a guilty plea despite the consequences. According to researchers Faye Taxman and Lori Elis, "*This raises clear questions about the fairness of a system that can work swiftly but, as one prosecutor noted, uses 'coerced participation' as the carrot to swift outcomes.*"¹⁰⁵

"This raises clear questions about the fairness of a system that can work swiftly but, as one prosecutor noted, uses 'coerced participation' as the carrot to swift outcomes."

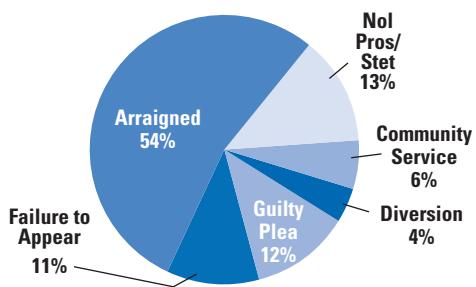
Faye Taxman and Lori Elis¹⁰⁶

3. Early Resolution Court

The Early Resolution Court is for people who were released pretrial and are awaiting trial in the community instead of the jail. If deemed eligible for the court based on the offense and offense history, the State's Attorney's Office makes an offer for a plea, and the person charged with the offense, with the advice of counsel, either accepts or rejects the plea. If the person accepts the plea and it is accepted by the judge at the court, the sentence or disposition is imposed. If the offer is rejected by either party, the case is set for trial on the regular District Court docket. People who accept the plea and the terms of the court will likely be required to perform community service and/or participate

in drug treatment if appropriate. There is currently a program with the Department of Public Works where people can walk out of court and go directly to a bus that will take them to a site to perform their community service that same day. If they complete the assigned diversion program their case will be *nolle prosseed*¹⁰⁷ and they will avoid the collateral consequences of a criminal record for the offense.

About 35 percent of non-citation cases that went to Early Resolution Court in 2009 were closed at that court



Source: Baltimore City State's Attorney's Office, Annual Statistical Report, January thru December 2009, Presented to Baltimore City Criminal Justice Coordinating Council meeting, March 2010

In 2009, 11,718 non-citation and 5,110 citation cases were reviewed in the Eastside Early Resolution Court. Of the non-citation cases, 426 (3.6 percent) were sent to diversion, 662 (5.6 percent) accepted community service and 1,368 (11.7 percent) cases were *nolle prosseed*.¹⁰⁸ Of the 5,110 citation cases reviewed, more than 60 percent (3,094 cases) were *nolle prosseed* and 843 (16.5 percent) accepted community service.

The Early Resolution Court and all of its components is sometimes jokingly referred to as the “let’s make a deal court,” because the State’s Attorney’s Office and the person’s lawyer (who is frequently from the public defender’s office) often negotiate the plea needed for participation. While there is little doubt that the existence

of the court saves time and resources in the short-run, it may not be the best option for people who are arrested or a long-term solution to the problem of overcrowded courts and jails. The Quality Case Review and Early Resolution Court may lead to widening the net of correctional control, as a guilty plea means a person will pick up a conviction on their record. Having a prior conviction could increase the likelihood of future incarceration: since the commissioner reviewing a person’s case for pretrial release on a future charge will see the conviction(s) on their record, he may be more likely to decide that the person must be detained prior to trial. Pretrial detention has been associated with a higher likelihood of a guilty disposition,¹⁰⁹ and a higher likelihood of a sentence of incarceration over probation.¹¹⁰

In addition, the courts are not offering any services or resources to ensure that people do not end up back at the court. And a person can go to the Early Resolution Court as many times as the judge will allow on new charges. While the court may keep people out of jail for a while and fast-track low-level cases, it is really just a band-aid on a growing problem of the number of people involved in the criminal justice system, instead of addressing the underlying issues that may be responsible for so many people showing up at Central Booking. Instead of creating faster ways to convict someone, Baltimore should focus its resources on finding better ways to keep people out of the criminal justice system through front end services like employment, treatment and housing.

Fugitive Safe Surrender—Coming Soon to Baltimore

Baltimore will soon be implementing the Fugitive Safe Surrender program to help reduce court backlogs and resolve outstanding warrants in the city.¹¹¹ Fugitive Safe Surrender is an increasingly popular initiative currently in 16 cities that involves the collaboration of efforts by U.S. Marshals and local law enforcement agencies with local faith-based organizations and leaders. The program establishes churches as meeting points for people with outstanding arrest or bench warrants to report on predetermined dates/times. This puts the onus on the person with the outstanding warrant to resolve their case, rather than expending law enforcement resources. Judges are on-hand at the meeting points in order to expedite the trial process. While the program primarily targets people charged with nonviolent offenses, those with a warrant for any type of offense are welcomed to surrender. Most cases can be disposed of immediately, but in some instances the nature of the offense or warrant may require that the person be arrested, which is done discreetly to avoid deterring other participants.

In addition to being able to process warrants on the premises, some Fugitive Safe Surrender programs have also offered referrals to social services, as well as on-site childcare; Washington, D.C. offered these services in their Fugitive Safe Surrender program in November 2003.¹¹² These measures may be valuable to people who might otherwise feel intimidated when reporting to a local enforcement agency.

In cities that have recently conducted Fugitive Safe Surrender, the number of people showing up has been staggering, oftentimes exceeding the expectations of organizers. In Camden, New Jersey in November 2008, 2,245 people surrendered themselves over the course of the four-day program.¹¹³ Detroit's program proved to be one of the most successful. In June 2008, more than 7,000 people surrendered,¹¹⁴ 3,300 of whom had their warrants processed on the premises and 750 of whom found out that they did not have active outstanding warrants.¹¹⁵

Fugitive Safe Surrender is different from prior efforts by Baltimore Law Enforcement and U.S. Marshals to apprehend people with outstanding warrants because it is not a typical round-up procedure. Past efforts to find persons with bench and arrest warrants, and then process the warrants, have taken the form of extensive and resource-exhaustive sweeps, such as the "Operation Safe Holiday" round-up in Baltimore in 2007, in which 110 law enforcement officials were needed to apprehend just 141 persons over a four-day period.¹¹⁶ Additionally, the Safe Surrender program may be a safer and more peaceful way to dispose of warrants than sweeps or crackdowns. The likelihood of violence and incidence of physical harm occurring is much greater using traditional methods of apprehending people with outstanding warrants than with the Fugitive Safe Surrender Program.

Circuit Court

The Circuit Court for Baltimore City is a state trial court of unlimited jurisdiction and is divided into four main divisions: Family, Juvenile, Criminal, and Civil. The family docket hears a wide range of matters including divorce, custody and child support cases. The civil division handles workers' compensation matters, medical malpractice cases, small torts and other business and commercial issues. The juvenile division handles delinquency cases, children in need of assistance cases and matters involving the termination of parental rights. Cases heard in the criminal division range from drug and property offenses to those involving violent offenses and violations of probation. In addition, the Circuit Court takes misdemeanor cases from the District Court if the sentence for the offense could be 90 days or more. The Circuit Court also runs Baltimore's Drug Treatment Court and the Felony Diversion Initiative.

When someone comes to the Circuit Court he first goes to arraignment court,¹¹⁷ where he hears the charges against him and the judge sets a trial date based on his case. The Circuit Court uses the Differentiated Case Management (DCM) system for deciding trial dates, which assigns a Track Code to each case depending on the complexity of the case, number of people charged and the anticipated length of the trial.

- *Track A* cases involve one or two people with an anticipated trial length of 2 days and are set for 60 days after the arraignment.
- *Track B* cases involve multiple people with an anticipated trial length of up to 5 days and are set for trial 90 days after the arraignment.
- *Track C* cases involve charges of serious personal injury or death and receive a trial date 120 days from the arraignment.
- *Track D* cases involve high profile matters and may require additional time for trial preparation.¹¹⁸

After the arraignment court he will go to the associated Reception Court, which was started in March 2007 by judges who were concerned about their caseload. Sometimes referred to as the "triage court", this is where lawyers for both sides and the judge can work through all of the cases and decide which cases can be plead out, which need to go to trial, which will be dropped and which cases to postpone. The primary goals are to try cases as expeditiously as possible and to limit postponements.¹¹⁹ If the person's case cannot be settled in Reception Court he will go to one of four trial courts associated with the Reception Court according to the date set by the judge.

Collateral dockets

Each Circuit Court judge schedules one collateral docket per month to deal with cases of violation of probation, post convictions, motions for modification of sentence and other matters. There are currently 13,871 people on probation in Baltimore.¹²⁰ Each person on probation is under the jurisdiction of their sentencing judge, whether that judge is in the District or Circuit Court. People who violate their probation (VOP) may be issued a summons or a warrant with a bail amount or "no bail" attached by a judge. Under Maryland rules, if a judge sets bail for a VOP, this person is not entitled to a bail review by another judge. The person can either make bail and be released or will remain in jail custody until their court date, which is held on collateral docket days. He is entitled to an attorney at the VOP trial, but must ask for one, which sometimes delays his being seen by the judge. At a minimum, it is likely that the person will not see the judge for 30 days after their arrest for VOP, but sometimes it is considerably longer. If the person shows up to court with the wrong judge there may be a postponement, leaving the person incarcerated for another month or longer. The number of cases seen on each collateral docket varies by day and by judge. Typically, judges see about 40 people for VOP charges on these days.¹²¹

The length of time between arrest and court seems particularly onerous in cases of violation of probation, as investigations are generally minimal and the meeting before the judge is more of a mitigation than a defense on the part of defense counsel, since technical violations are not new offenses. Having more frequent collateral dockets could reduce the amount of time that a person may have to be incarcerated for a technical violation.

*Adrian*was arrested in Baltimore in 2004 for selling illegal drugs. After posting \$100,000 bail he was back on the street, only to be arrested again less than a month later on a similar charge. He was not offered bail the second time and was facing a 10 year sentence. He was committed to the Baltimore City Detention Center to await a trial that never came. Adrian's case was postponed multiple times for various reasons, including court closures, delays in the prosecution's case and lack of witnesses, including law enforcement. The State of Maryland requires all people to be tried in 180 days after their attorneys make their initial appearance before the court (Hicks rule),¹²³ but a person who is being charged can waive this right to a speedy trial (Hicks waiver). Adrian refused a Hicks waiver and after spending two years incarcerated in the jail, with the help of his lawyer, his case was dismissed and he was released.*

Postponements

When someone is arraigned, the prosecutor and defense attorney decide on a trial date that will allow for both of them to work on their case and be ready to present to the court. However, in some cases, the trial date arrives and one or both of the parties is not ready and may ask for a postponement. Usually when they ask for a postponement of the court date it will be a minimum of another 60 days to the next court

appearance.¹²² Court dates can be postponed for a number of reasons including illness, inclement weather that forces the courts to shut down and other unanticipated incidents. And there is no limit to the number of times a case can be postponed—it is at the discretion of the judge. Although the number of postponements has dropped over the past few years, it is still a frequent challenge for the courts. For many people who are detained pending trial, postponements can mean another couple of months of sitting inside the jail waiting to be seen by a judge. Postponements appear to be a significant factor in jail crowding and the increasing average length of stay for people in the jail.

Postponements can lead to other consequences both for people who are incarcerated and for case outcomes. Sometimes people are incarcerated awaiting trial for longer than they would have been sentenced to had they been convicted on the offense. For example, someone may be held for 90 days awaiting trial only to receive a 30 day sentence suspended because of time served, or probation with no jail sentence at all. Alternatively, for people whose cases are postponed so many times that their pretrial incarceration exceeds 180 days, they will either be asked to waive their *Hicks* rights¹²⁴ or their case will be dismissed. In this way, exceedingly long pretrial wait times may result in people not being tried, and the community feeling that justice was not served. Finally, postponements can cause lawyers from both sides to lose track of witnesses and could be detrimental to their case.

Court processes have a real impact on the number of people incarcerated in the jail and how long they stay there. Identifying promising practices could reduce the length of time people wait for trial, reducing the number of people in the jail, reducing costs and possibly leading to better outcomes for people involved in the criminal justice system.

* Adrian Muldrow is the director and co-founder of We Can Achieve: Consulting, Mentoring & Educational Services in Baltimore. Adrian was personally interviewed by the author of this report.

Violence Prevention Initiative

The Violence Prevention Initiative may be resulting in more arrests and longer jail stays for the people it targets. Following crime statistics showing that 30 percent of people arrested in Baltimore City were under supervision of the Division of Parole and Probation, the Maryland Department of Public Safety and Correctional Services launched the Violence Prevention Initiative in July 2007. The Violent Prevention Unit (VPU) is a special program of the Division of Parole and Probation (DPP) established to reduce violence in the community by focusing on people who fit certain criteria and increase information-sharing between jurisdictions. These people are either on probation or parole and have been identified by certain characteristics related to violent or gun offenses. By studying the characteristics of both people engaged in crime and victims in Baltimore City, DPP developed a risk assessment tool to identify people on probation with the greatest probability of participating in future violent offenses; this tool is updated frequently. The Juvenile Violence Prevention Initiative focuses on youth who have been involved in homicides or non-fatal shootings.

According to the Governor's Office of Crime Control Policy, "Any offender under DPP supervision who is: 1) under 29 years of age; 2) has 13 or more arrests; and 3) is currently under supervision for Felony Drug Offenses, Armed Robbery, Carjacking, Felony Assault, Handgun Violations, Kidnapping or Murder is automatically assigned to the Violence Prevention Unit within DPP. Validated high-ranking gang members, and parolees or mandatory releases who were, while incarcerated, confined to Administrative Segregation, or who assaulted correctional officers are also assigned to VPI."¹²⁵ There are currently 869 people under active probation supervision in the Violence Prevention Units in Baltimore City.¹²⁶

People on the Violence Prevention Unit can be in one of two categories: VPU I or VPU II. All people start in VPU I; if a person is compliant after one year of being on the program he can be moved down to VPU II. People under the supervision of the VPU I are required to meet with their probation or parole officer 12 times per month, and those tagged with VPU II must meet 8 times per month. If a person is fully compliant after one full year he can be removed from the VPI list.¹²⁷ The conditions of supervision for a person on the VPU list can be onerous and difficult to follow, especially when he is trying to maintain employment or education and when transportation is an issue.

Once a person is on the VPU list, he is under close scrutiny by all parts of the criminal justice system. Officers at the Division of Parole and Probation, who supervise people on the list, are instructed to use a zero tolerance approach to their behavior: if a person on the list misses an appointment, his supervisor gets a warrant for their arrest. If he is picked up for even a minor offense, his case will be flagged in Central Booking and he may be more likely to receive no bail or a high bail amount for his release. As an example: a man on the VPU is arrested for a very small amount of drugs for personal use. He is taken to Central Booking where the State's Attorney decides to charge him for the possession. Pretrial services runs his records and notes that he is on the VPU list. The State's Attorney's Office may then recommend to the commissioner that this person receive a very high bail amount or no bail, to help ensure that he stays incarcerated, even though this offense is very minor and nonviolent and may have

resulted in a release on recognizance for someone who was not on the list. Even if the State's Attorney's Office decides to drop the charge on the person on VPU, their probation or parole can still be revoked for the offense.

The VPI program, which is run by the State of Maryland, rather than Baltimore City, is legitimized as a public safety tool that can identify the "worst of the worst" and keep Baltimore streets safe. The program assumes the worst—that people are going to engage in illegal or violent behavior in the future and any illegal behavior, whether robbing a convenience store or violating probation by missing a meeting, is cause for detention. According to the program, locking people up for minor offenses will ensure that they can't go out and commit a more serious offense. For example, if a person not on VPI is being supervised in the community by Pretrial Release Services and misses an appointment with his pretrial agent, it is noted, but there is no real consequence, as long as the person shows up for their court date. If a person is in the VPI program, however, and misses an appointment with the agent the next day that agent must go to the judge and ask for a warrant for his arrest. This process takes up valuable resources from the judge and can strain the relationship between Pretrial Services and the courts.

In addition, this type of close supervision has been shown to be correlated with more arrests, including arrests for low-level offenses that are not shown to be precursors to future violence. This can mean additional incarceration at a point in time when a person may be trying to meet their personal and social obligations. Additionally, with Maryland's expanded definition of who is a "gang member," the VPI program may actually widen the net unnecessarily. Finally, the question of whether someone should be jailed for a minor offense such as littering or trespassing on the suspicion that they may engage in future serious crime seems counter to what is considered usual punishment. More needs to be learned about the effectiveness of VPI before it can be determined that public safety warrants the change from existing practices that it represents.

Recommendations:

- 1. Evaluate court processes.** The Baltimore Courts should examine the fairness of fast-tracking court processes that require guilty pleas. Finding ways to streamline court processes while providing alternatives to pleas could benefit people involved in the system and the larger community because that person would not be hindered by the collateral consequences of a criminal record. In order to accomplish this goal, system players need better access to court data.
- 2. Expand court hours.** Baltimore Courts should expand their hours to include nights and weekends to clear up court backlogs. Other jurisdictions like New York City have opened up extended hours for their courts to reduce clogged court dockets. Expanding court hours could alleviate long wait periods for people awaiting trial, which could have a significant impact on the amount of time people spend in jail pretrial.
- 3. Reduce time between alleged probation violation events and court hearings.** Judges should increase the number of collateral docket days to reduce the number of people waiting in the Baltimore jail for technical violations of probation. Alternatively, probation violation hearings could be scheduled into their judge's next available regular court docket if that date is sooner. Forcing people who are trying to establish positive ties to the community, like employment and education, to remain incarcerated for upwards of 30 days if they cannot afford bail on a technical violation is a waste of jail resources and may be contributing to jail overcrowding.
- 4. Address postponements.** Baltimore criminal justice agencies need to address the number of postponements allowed in cases, as these are affecting the length of time people remain incarcerated pretrial. Postponements are caused by nearly all parts of the system and examining possible solutions to this problem will help reduce the length of time people remain in jail awaiting trial.
- 5. Closely examine the VPI program.** Maryland should continue to examine the effectiveness of the Violence Prevention Initiative and whether better policies and practices are available. The VPI program uses extensive law enforcement and court resources and may be contributing to the number of people incarcerated at the jail. Identifying other ways to positively support people who may be at risk of violent behaviors may be a more cost-effective way of maintaining public safety and ensuring positive life outcomes.



Summary: Reentry initiatives are some of the most important yet least-funded aspects of the criminal justice system. With today's high rates of incarceration, communities, mostly metropolitan centers, must manage more people recently released from jail or prison at a higher rate than ever.¹²⁸ The transition from cell to city is a crucial one, encompassing the time when a person either starts a new life or returns to his or her past. This critical period is when people leaving jail are either left to "sink or swim" or are provided with critical resources and support necessary to establish themselves in the community. It is paramount that policymakers do more to ensure community safety and promote positive life outcomes for people leaving correctional facilities like the Baltimore jail.

People leaving correctional facilities face a number of different challenges when re-entering their communities. Finding employment and housing, accessing treatment or services, establishing positive social networks and even just getting transportation home are all common challenges faced by people re-entering the community. These challenges are partially responsible for the high re-incarceration rate; the lack of access to supported re-entry services can make the transition even more difficult. A survey of women in the Baltimore jail revealed the five most important factors in keeping them

from returning to jail: employment, drug treatment, housing, seeing their children and living in a different neighborhood.¹²⁹

Even short-term incarceration can increase recidivism when compared to alternatives.

Even short-term incarceration can increase recidivism when compared to alternatives. According to a 2003 review conducted by the Office of Legislative Analyst for the San Francisco Board of Supervisors, people released to home detention, work release programs and residential treatment pro-

grams all fared better than the control group in jail. Nearly two-thirds of all people who were released following incarceration recidivated, compared with the 33 percent recidivism rate of people who completed these diversion programs.¹³⁰

The Baltimore City Re-Entry Implementation Council is working with organizations in the community to determine how they can improve access to re-entry services for people leaving the Baltimore jail. But one of the biggest challenges they face is pinpointing times when organizations and agencies can reach the most people as they are being released, as it appears that these times vary and can sometimes be in the middle of the night. This is further complicated as people are released from multiple locations at the jail: people can be released on Eager Street or from the Jail Industries building. Additionally, a large number of people are released by the courts when either their cases are dropped, their pretrial release status changes or their case is disposed of in a number of ways. Formerly these people would be released straight from court, but now everyone is taken back to the jail for processing, which can sometimes lead to release in the mid-

dle of the night, making it difficult to arrange rides home or other services.

While jail administrators keep records of the times that people are released, city agencies working on implementing re-entry services are not receiving this information. Furthermore, it is not obvious if the records are being used by jail administrators for planning purposes, especially as it pertains to re-entry services. Identifying when and where people are released could help determine the best place to station release services, so they are not released to the streets without support and services to help them succeed and reintegrate into their community. And best practices require that re-entry services are provided

before a person is released from a correctional facility, not just after they have been released.

The success of reentry initiatives pays dividends, both in terms of social costs and financial costs. Providing services that guide formerly incarcerated men and women into jobs can have a positive impact on communities, both in terms of public safety and cost savings. In 2007 the Urban Institute found that the Maryland Reentry Partnership Initiative (REP) saved Baltimore residents \$7.2 million—\$21,500 per REP participant—producing \$3 in benefits for every \$1 spent. Participants in REP also committed fewer crimes (72 percent during the study period) than the control group (77.6 percent).¹³¹

Stories from inside the jail, and out

Tens of thousands of people cycle in and out of the Baltimore criminal justice system and jail every year. Many people struggle with substance abuse or mental health problems, homelessness, joblessness or any number of other challenges that may have contributed to their criminal justice involvement. Most will spend nearly 24 hours in Central Booking, and many will spend days, months and even years in the jail awaiting their day in court. Some people are fortunate enough to receive support and services while they are in the jail and/or when they are released. These are some of their stories.¹³²

Anita*

Anita struggled with addiction for many years but was never able to access treatment and admittedly did not always have the desire to seek treatment. A few years ago she was arrested in Baltimore and sent to jail on drug-related charges and for violating her probation.

While incarcerated in the Women's Detention Center, Anita took part in group sessions with Baltimore Rising, Inc., a nonprofit group that provides re-entry services inside and outside the jail. She and a few other women would meet once a week to talk about their goals for when they were released and what they needed to do to achieve them. Because of the support she received from Baltimore Rising and this group of women at the jail, Anita felt hope. The woman who runs the group, Ms. Cynthia Jackson, even attended court with Anita, where she was sentenced to one year for her violation of probation and drug charge. She spent six months in the jail.

Ready for a change in attitude and behavior, Anita went to Baltimore Rising to get help once she was released. Staff at Baltimore Rising referred her to a transitional recovery house for women who have been released from jail and are in need of treatment. Anita continues to work with Baltimore Rising and is attending college and getting her life together. She has goals for her life now, like getting her own place and finishing her education. She knows that it is hard for women who have been in jail to make positive changes to their life and not go back to their old ways. She tears up when thinking about how grateful she is for the help she has received since she's been released and how excited she is for the positive things in her future. She never wants to go back to the jail.

*Anita's name has been changed to ensure her privacy. Anita was personally interviewed by the author of this report.

Adrian*

Adrian was a young teen when he first started selling drugs to buy himself expensive clothes and shoes. At age 16 he was arrested and cycled in and out of the prison system for the next 20 years. In 1999 he was wrongfully convicted of first-degree murder and spent over five years in a Maryland prison. In all his time incarcerated Adrian never received any services to help him when he was released, aside from earning a GED at age 23 while in prison. After the case was overturned and he was released, Adrian went back to what he knew—selling drugs. Less than three months after his release he was arrested in Baltimore and committed to the Baltimore jail. While detained in the jail Adrian saw the unjust and inhumane treatment of the people who were incarcerated with him. He joined the Inmate Council and soon became President, advocating for more just policies and practices inside the jail. These included more nutritious meals, better exercise equipment, fairer classification procedures to alleviate overcrowding issues and more appropriate medical treatment. He saw that most of the people he was incarcerated with were more concerned about fighting with each other than fighting *for* each other. He wanted to make a difference.

After spending two years in the Baltimore City Detention Center awaiting trial, Adrian was released with the help of friend and attorney, Marc¹³³ and joined Catholic Charities' Maryland Re-Entry Partnership (REP).¹³⁴ This program helps people returning to Baltimore communities after incarceration with housing, job placement, health issues, substance abuse, employment and education and getting Social Security cards and birth certificates. In addition to support and mentoring, the Re-Entry Partnership helped Adrian find a job within a month of working with them and helped him obtain transitional housing. While in the program, Adrian secured a steady job, got married and now has two daughters; he recently purchased a home. He graduated from the program in March of 2008.¹³⁵ Adrian is also the director and co-founder of We Can Achieve: Consulting, Mentoring & Educational Services in Baltimore.¹³⁶

Adrian's experiences with the criminal justice system taught him that it doesn't work; he kept seeing the same guys coming into and going out of the jail. He saw that people like himself who have a propensity to engage in illegal behaviors do not receive any services or assistance to find other outlets when they are released. Many of them don't have a plan when they are released, and no process for re-entry, so they go back to what they were doing before they were arrested. He thinks there needs to be on-site programs to help people so they are prepared when they are released; programs like substance abuse treatment and employment skills could help people transition back to the community and lead positive, successful lives.

*Adrian Muldrow is the director and co-founder of We Can Achieve: Consulting, Mentoring & Educational Services in Baltimore. Adrian was personally interviewed by the author of this report.

Michelle*

"When you're inside the jail, you just have to make the best of a bad situation."

While incarcerated in the Baltimore jail awaiting trial, 22-year-old Michelle participated in group sessions with Baltimore Rising, Inc.¹³⁷ The group provides people a positive and safe space to voice concerns about their past and their future. It provided the backbone for the positive changes that Michelle was to make when she was released after pleading guilty and receiving probation with a suspended sentence for her offense.

Today, Michelle lives in Baltimore and is about to finish her junior year in college. She has been out of jail for two years. After being released, she went back to Baltimore Rising to receive services to help her get her life together. She felt such a connection with the organization that she volunteered in the office until she was hired on as a full-time member of the staff. She knows that there is a significant amount of discrimination in society and that there are not a lot of people out there who want to hire somebody with a felony record, and she is grateful for the opportunity to work at a place that sees her as a whole person, not just a felony record. She believes strongly that Baltimore Rising provides vital services for people who need them.

Michelle recently went back to the Baltimore jail, this time as a visitor to the women's group in which she used to participate. She brings hope to the women inside and inspires them to come out, make goals and work hard to achieve them, like she did. She didn't mind going back to the jail as a visitor, but never wants to go back as a resident.

How do conditions in the jail affect successful re-entry?

It is no secret that the Baltimore jail has had its share of "horror stories" when it comes to living conditions and the treatment of people incarcerated there. Being one of the oldest and most crowded jails in the country lends particular challenges, and the jail has been the subject of many lawsuits over the years and even a federal Department of Justice investigation¹³⁸ regarding its conditions. Older jails like Baltimore's tend not to be built for the purpose of providing

services and may suffer from many of the problems associated with other older buildings, including mold, poor ventilation, lead pipes, asbestos, and other structural and environmental challenges. These problems can be extremely detrimental to the health and rehabilitation of people in them. The most recent settlement in *Duvall v. O'Malley* will help with some of the conditions in the jail, including access to medical care, but many problems still exist and crowded, inhumane living conditions can have negative consequences for people once they leave. (See text box.)

* Michelle's name has been changed to ensure her privacy. Michelle was personally interviewed by the author of this report.

The reported conditions in the jail do not lend themselves to rehabilitation and may actually worsen a person's chances of succeeding on the outside. In general, substandard or inhumane living conditions and overcrowding in correctional facilities are associated with poor outcomes after release, including higher recidivism rates.¹⁴¹ People with mental illness in jails

Reported conditions in jail do not lend themselves to rehabilitation and may actually worsen a person's chances of succeeding on the outside.

are particularly affected by these conditions; incarceration generally causes them to decompenstate and makes them more at risk of harming themselves or others. People in over-crowded jails may receive fewer assessments when they arrive, fewer services while they are incarcerated and little to no services when they are leaving the jail. According to one group of clinicians, "Unfortunately, the prospect of

screening inmates for mental disorder and treating those in need of mental health services has become a daunting and nearly impossible task in the present explosion of prison growth."¹⁴²

The Baltimore jail has hospitals on site and in-house contracted doctors and medical staff to address both acute and chronic issues. Medical requests or "sick calls" are available six days per week and are supposed to be answered within 24 hours. These sick calls cost people in the jail \$4 per visit from the doctor,¹⁴³ but nobody will be turned away if they cannot pay. People inside the jail claim that sometimes those requesting medical care are ignored or refused treatment, causing irreparable physical problems. In addition, the lack of an on-site pharmacy may make it difficult to receive medications in a timely matter, as the current turnaround time is 24 hours. One reason for the lack of a pharmacy is simply logistics—there is no room for one in the jail. People in correctional facilities experience various physical and mental ailments that need to be appropriately addressed by the facility.

Duvall v. O'Malley—A big step toward better conditions for people in the jail

"Being tough on crime shouldn't mean putting prisoners' lives at risk through blatantly inadequate medical care and woefully unsanitary conditions" —Baltimore Sun 8/20/09¹⁴⁴

In 2009, a settlement was reached in Duvall v. O'Malley et al, a 17-year old lawsuit, with the help of the ACLU's National Prison Project and the Baltimore-based Public Justice Center. The lawsuit was originally filed in 1971 when statements by medical experts and people who had spent time in the jail revealed shamefully sub-par health care, along with dangerous and unsanitary living conditions at the jail. The settlement should lead to dramatic improvements in the quality of medical and mental health care provided at the Baltimore jail. These improvements include better medical and mental health screening at intake, responses to sick calls within 72 hours, ongoing treatment for people with chronic diseases, an on-site psychiatrist available five days a week and necessary housing supplies for people with disabilities. Officials are also required to ensure safe and sanitary conditions for people in the jail and respond to any issues in a timely manner.¹⁴⁰ While there are still issues to be addressed in the jail, like the inadequate temperature control system, this agreement is a big step toward better conditions for the tens of thousands of people who cycle in and out of the jail every year.

What do people need when returning to the community?

Identifying specific needs of people leaving jail in any one community can often be difficult, but in Baltimore some of the work has already been done. A collaborative project commissioned by Baltimore non-profit organization Power Inside,¹⁴⁴ working with women inside the Baltimore jail and the Bloomberg School of Public Health at Johns Hopkins University, surveyed women leaving the jail in winter 2005. The purpose was to gain information about the women generally and what they felt that they needed when they got out.¹⁴⁵ After the women's survey was published, Power Inside partnered with the Baltimore City Mayor's Office of Criminal Justice, the Division of Pretrial Detention and Services, Catholic Charities of Baltimore and Choice Research Associates to similarly survey men leaving the Baltimore jail in summer 2009.¹⁴⁶ Although they were not identical, both surveys focused on socio-demographic background, health status, recent drug use and sexual behavior history, and material and social resource availability upon release from the facility. The surveys found similar results for both men and women: high incidence of mental health and substance abuse problems and a need for housing and treatment upon release.

Treatment

Mental health

These two surveys found mental health problems to be a common occurrence in people leaving the Baltimore jail. Of the 148 women surveyed, 59 percent reported having been diagnosed with depression and 33 percent with bipolar disorder.¹⁴⁷

Of the 171 men responding to the survey, 42 percent reported having been diagnosed with mental illness at some point in their lifetime.¹⁴⁸ Of these men, 81 percent report having been

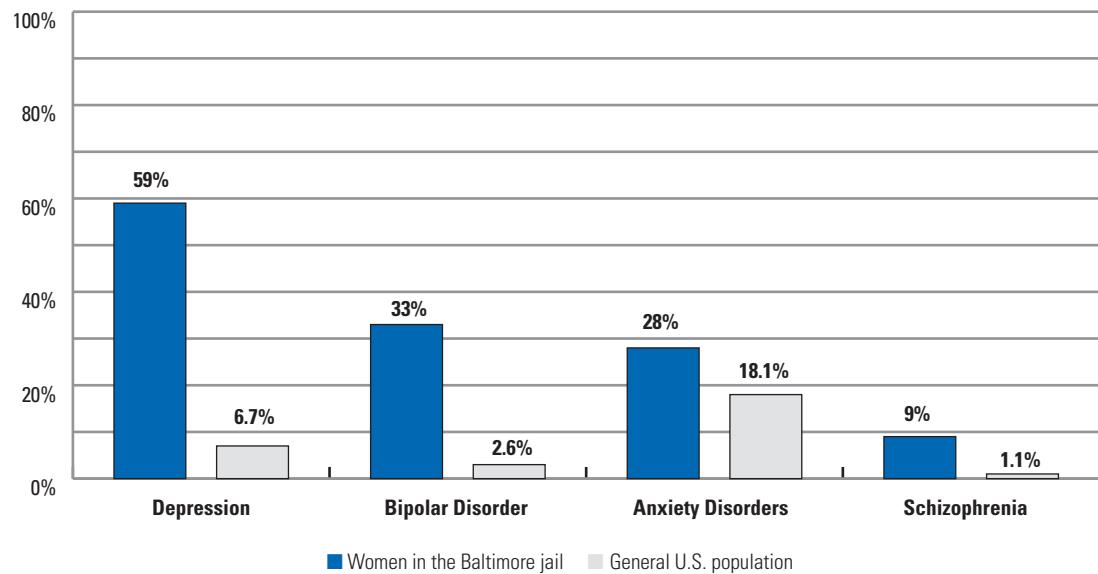
diagnosed with depression and 44 percent with bipolar disorder.

People who have co-occurring drug addiction and mental health disorders can experience a psychological deterioration once jailed due to the interruption in treatment and medication and environmental stressors. People with these issues are in need of extra care from mental health professionals, who, according to the National Association of Counties, have to work "twice as hard to get them back to where they were before they entered the jail."¹⁴⁹ The lack of available community mental health treatment can lead to more people with mental illness coming into contact with the criminal justice system, especially for people who are also homeless.

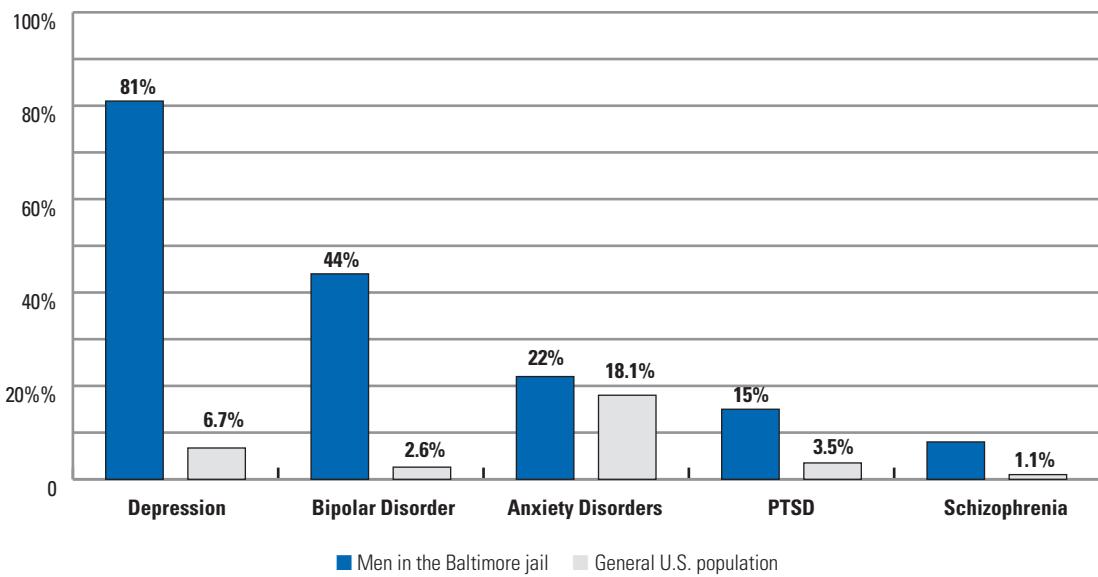
Researchers have found that the people's reaction to jail conditions can exacerbate mental health problems and conditions that may increase their propensity towards suicidal behavior.

Once they are incarcerated, researchers have found that the people's reaction to jail conditions can exacerbate mental health problems and conditions that may increase their propensity towards suicidal behavior. Newly jailed people experience fear of the unknown, distrust of the environment, isolation from family and significant others, shame and stigma of incarceration, a loss of stabilizing resources and severe guilt or shame over the alleged offense. Current mental illness and prior history of suicidal behavior also intensify in the jail environment.¹⁵⁰ These conditions and stressors conspire to increase the suicide rate in jails, as compared to the general population. Compared with a U.S. suicide rate of 17 per 100,000 people, the suicide rate in local jails is 47 per

More women in the jail reported having a mental illness than people in the general population



More men in the jail reported having a mental illness than people in the general population



*Note: Researchers were unable to find reliable data separating men and women with mental illness in the general population, but most sources found there to be similar prevalence.

Source: R. C. Kessler and others, "Prevalence, severity, and comorbidity of twelve-month DSM-IV disorders in the National Comorbidity Survey Replication (NCS-R)," Archives of General Psychiatry 62, no. 6 (June 2005):617-27; D.A. Regier and others, "The de facto mental and addictive disorders service system. Epidemiologic Catchment Area prospective 1-year prevalence rates of disorders and services," Archives of General Psychiatry 50, no. 2 (February 1993):85-94. Retrieved from www.nimh.nih.gov/health/publications/the-numbers-count-mental-disorders-in-america/index.shtml; Women: Rachel L. McLean, Jacqueline Robarge, and Susan G. Sherman, "Release from Jail: Moment of Crisis or Window of Opportunity for Female Detainees?" Journal of Urban Health: Bulletin of the New York Academy of Medicine 83, no.3 (2006): 382-393 Men: Flower, S., Britt, T., Brooks, R., Lewis, J., & Robarge, J. (2009) The Window Replication Project: A survey conducted by Choice Research Associates and commissioned by Power Inside, the Baltimore City Mayor's Office of Criminal Justice, the Division of Pretrial Detention and Services of the Maryland Department of Public Safety and Correctional Services, and Catholic Charities of Baltimore. A Preliminary Analysis of Survey Results (unpublished report). Baltimore, MD.

100,000 people.¹⁵¹ Suicide is second only to illness in the leading cause of death in jails: 25 percent of all deaths in jails in 2006 were suicides.¹⁵²

Substance Abuse

Men and women from each survey reported substance use. Fifty five percent of women surveyed reported recently using heroin¹⁵³ and 49 percent of the men reported using heroin in the 30 days prior to their arrest; the majority of these men (75 percent) used heroin daily.¹⁵⁴ Three quarters of women and 35 percent of men reported wanting drug treatment upon release, but only 13 percent of women who participated in the survey reported accessing some form of drug treatment during incarceration. Nearly 40 percent of women and half of men reported not having insurance and 53 percent of women and 28 percent of men reported not accessing drug treatment because they could not afford the fees.

An estimated 68 percent of people in jails across the country have a substance abuse problem,¹⁵⁵ and Baltimore Substance Abuse Systems (BSAS) estimates that 8,000 Baltimore residents receive court orders with conditions for treatment annually.¹⁵⁶ Although drug treatment in the community is more effective than treatment in prison or jail, quality institutional treatment can be beneficial and may help with re-entry into the community. The Baltimore jail provides substance abuse treatment for select people who were either participating in methadone programs when they were arrested or who were court ordered to treatment while incarcerated through Addicts Changing Together—Substance Abuse Program (ACT-SAP, see below).

Methadone Maintenance

At the initial intake in Central Booking there is a medical screening, and if a person is determined to have been using heroin, the physician may prescribe methadone to help with the detoxification process. If this person was participating in a methadone program in the community before they were arrested they will

also be identified at the initial screening. Jail staff will verify that the person was participating in the program, helping to ensure that he receives methadone while incarcerated. While originally the jail only provided methadone to pregnant women, since January 2008 everyone who was participating in a program in the community can now receive methadone treatment while incarcerated. The methadone program connects jail officials with methadone clinics to keep patients on their proper doses and to hold their treatment slots, helping to ensure a continuation of care when they are released.¹⁵⁷

Addicts Changing Together— Substance Abuse Program (ACT-SAP)

ACT-SAP provides another option for adults with substance abuse problems being held in the Baltimore jail pretrial for nonviolent misdemeanor charges. ACT-SAP (Addicts Changing Together—Substance Abuse Program) is a therapeutic 45-day court-referred program inside the jail.¹⁵⁸ Baltimore Substance Abuse Services (BSAS) does an assessment of the person arrested and makes recommendations to the judge, who can refer him to the program. Participants in this program stay in dorms outside of the general population of the jail.

Currently there are 50 beds for men and 30 beds for women in ACT-SAP. The program consists of individual and group counseling, life skills training, anger management, GED courses, community speakers, role plays, home assignments and stress management classes. People in this program may also participate in acupuncture services as part of their treatment. The program also assists people with re-entry, specifically with bringing families together through Family Mediation Services. Family Mediation Services brings together the incarcerated person and the loved one with whom they would like to reconcile and allows them a safe place to talk to each other and work past any issues they may be facing. This program aims to increase their chances of reunification with family, and the support that goes with it, after release.

When completes the 45-day program, he is typically released on probation for the remainder of his sentence. He is recommended to either an intensive outpatient program (IOP) or a residential program depending on his likelihood of relapse. When he completes his probation and has been clean for at least one year he officially graduates from the program and is free from court supervision.

ACT-SAP has been working at the jail since 1993 and has very high completion rates: according to ACT-SAP personnel, 97 to 100 percent of people will complete the program and 100 percent pass urinalysis.¹⁵⁹ One reason for the high success rates of people who are admitted to the program is the eligibility requirements of people who participate in the program; only people with low-level misdemeanor offenses are allowed to participate. These people may already be the most likely to succeed and may benefit more from an appropriate level of treatment in the community rather than intensive treatment and programming while incarcerated in the jail. Furthermore, the people who would otherwise receive a referral to treatment in the community as part of their probation or pretrial release are currently being held in the jail because this program is available instead of being released to pretrial community supervision.

There is usually a waiting list for the program, which admits new participants, and graduates others, on a weekly basis, and ACT-SAP staff is currently working with judges on expanding the program so they can help more people. Best practices call for admissions criteria based on risk and potential benefits rather than offense-type. This would open up opportunities to reach those who would most greatly benefit from the program.

Medication and referrals to treatment

The jail is required by law to provide a 30 day supply of medication to people leaving the jail if

they had been receiving this medication while incarcerated, whether for a mental illness or physical ailment. However, anecdotes from both people who work in these facilities and people who are incarcerated in them tell a different story—people are not getting the medications they need at discharge. One reason for this may be that it is hard to anticipate when someone will be released. Jails have a very high turnover rate—some people stay for hours, while others for months and sometimes years. However, this lack of a continuation of care from the jail to the community can mean the difference between someone succeeding once released and his returning to jail. The health of the community may also be put at risk if someone is released without medication for an infectious disease.

Medicaid and Other Benefits

The first few weeks after a person is released from jail are critical. Even when the jail does manage to provide someone with 30 days' worth of medication upon release, if their Medicaid or Social Security status has changed while incarcerated, they may face a gap in treatment once the provided supply of medication is gone; too frequently, this can lead to cycling back through the jail.

The federal government mandates that Supplemental Security Income (SSI) disability benefits be suspended when a person is incarcerated for a full calendar month. If the person is incarcerated for 12 months or more, his or her SSI benefits are terminated. Most people whose SSI benefits have been terminated will, upon re-determination, lose Medicaid eligibility as well and need to apply as a new applicant.¹⁶⁰ People who are on Medicaid but do not receive SSI benefits remain eligible while incarcerated for up to 30 days.

Currently, people locked up in the Baltimore jail do not receive any help re-instating benefits upon release. In the past, the jail has entered into

agreements with the local medical assistance office, but the jail does not currently have guidelines for what they can provide and how, and it does not have any applications for Medicaid to provide to people leaving the jail.¹⁶¹ Other cities and counties enter into pre-release agreements with the Social Security Administration (SSA) and collaborate with their local Social Security offices to help people obtain SSI and Medicaid benefits as soon as possible after release.¹⁶²

Property and Identification

People come to the jail with varying amounts and types of property, from the clothes on their back to their life's belongings in a bag. It is imperative that their possessions are returned to them when they are released. However, the property rooms at the jail are only open Monday through Friday from 10am to 2pm. If, as often happens, someone is released outside of these hours, he will be leaving without his property—wallet, jacket, health insurance card, etc.—and will have to come back later to retrieve it. People who remain incarcerated in the jail for longer than 30 days must have someone come get their property, or it will be destroyed by the jail and any money they had is added to their commissary account.¹⁶³ Up until recently, this would include his ID, so that when he was released he likely had no form of identification. This has now been changed thanks to the efforts of multiple groups, including Baltimore's Re-Entry Implementation Council. Now, if a person is released they will receive their state-issued identification before they leave, even if the rest of their property remains at the facility or has been disposed of.

While the return of identification at release is an improvement, that a person can be released to the streets without their coat or wallet is still a problem that needs to be remedied. It obviously takes time and resources from the jail to ensure that people receive their property, but releasing people without vital personal properties can

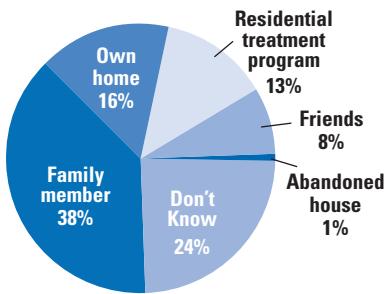
have consequences too and may lead to more challenging circumstances for people being released—like staying warm or getting home.

Housing

Adequate and affordable housing is one of the key factors in whether a person will succeed in the community upon release. Of the 148 women surveyed who were leaving the jail, only half (54 percent) anticipated stable housing upon release. One in four women surveyed didn't know where she would be staying when she was released, and among those who did know where she would be staying, 28 percent anticipated staying with a family member, 16 percent at their own home, 13 percent in a residential treatment program and 8 percent were planning to stay with friends. For the 200 men surveyed, nearly two-thirds (63 percent) anticipated stable housing upon release. Still, one in 10 men surveyed didn't know where he would be staying when he was released and another 11 percent said they would sleep on the streets, in a park or move place to place after release.

Studies show that quality affordable housing can mean the difference between a person returning to jail and being successful in the community. For people who are most at risk for criminal justice involvement—such as those with substance abuse or mental health issues—supportive or affordable housing has been shown to be a cost-effective public investment, lowering corrections and jail expenditures and freeing up funds for other public safety investments.¹⁶⁴ Additionally, providing affordable or supportive housing to people leaving correctional facilities is an effective means of reducing the chance of future incarceration. A 1998 qualitative study conducted by the Vera Institute of Justice found that people leaving a correctional facility in New York City on parole who entered shelters for the homeless were seven times more likely to abscond during their first month after release than those who had some form of housing.¹⁶⁵

One in four women surveyed didn't know where she would stay when released from the jail.



Source: Rachel L. McLean and others, "Release from Jail: Moment of Crisis or Window of Opportunity for Female Detainees?" *Journal of Urban Health: Bulletin of the New York Academy of Medicine* 83, no.3 (2006): 382-393

Since people being released from the jail often return to the same few communities, those communities share the responsibility of providing services. In 2001, almost all people incarcerated in Maryland prisons returned to Maryland once released. Of those, 59 percent returned to Baltimore City, mostly the communities of Southwest Baltimore, Greater Rosemont, and Sandtown-Winchester/ Harlem Park. Some of these communities received more released individuals than entire counties in Maryland. As these communities tend to have higher crime and poverty rates and fewer resources, people are released to environments that include many of the risk factors for recidivism.¹⁶⁶ Concentrating re-entry resources in these communities may help to break the cycle of incarceration and help people get back on their feet after release from the jail or prison.

Providing affordable or supportive housing to people leaving correctional facilities is an effective means of reducing the chance of future incarceration.

The Baltimore City Re-Entry Implementation Council, the Division of Pretrial Detention and Services and numerous non-profit advocacy organizations and direct service providers in the city have been working toward creating a better re-entry system for people leaving the jail, but it is clear that more needs to be done. Making necessary changes based on evidence of what works and on best practices in re-entry in other localities will reduce the number of people in the jail; reduce costs associated with the jail and other criminal justice costs; improve safety in the jail and in the community; and improve life trajectories for people re-entering the community.

Recommendations:

- 1. Release people at scheduled times from set locations.** The Baltimore City Re-Entry Implementation Council and the Division of Pretrial Detention and Services should work together to create a daily schedule for when people are released from the jail and from what facility exit. Knowing where people are released can help the City and non-profit organizations identify where and when to provide services for people leaving the jail and hopefully create an avenue for more collaboration between agencies.
- 2. Tell people when they will be released.** Administrators at the jail should let people know as soon as possible their estimated time of release so they can arrange for pickup and other services. This will help people who are released from the jail, and will make neighborhoods around the jail feel safer because people will not be loitering outside the jail trying to find a way home.
- 3. Improve conditions.** The Division of Pretrial Detention and Services should improve conditions at the jail. Small changes like improving laundry services so that people are not washing their clothes in the toilets could have a big impact. Updating and improving conditions in the jail may lead to better outcomes for people who are confined there while awaiting trial.
- 4. Fund preventative treatment for people with mental illness.** Baltimore City should fund more community mental health treatment for people with mental illness before they become involved in the criminal justice system. People with mental illness do not belong in the criminal justice system or in jails and providing

community-based services and medication regardless of ability to pay can prevent some behaviors that may lead to arrest or incarceration.

- 5. Utilize diversion and treatment for people with substance abuse problems.** Judges should refer more people to drug treatment, as appropriate. But for the people with substance abuse problems who judges feel should be incarcerated for public safety reasons, judges should make more referrals to programs like ACT-SAP. The Division of Pretrial Detention and Services should work with judges and treatment providers to expand this and other programs in the jail.
- 6. Ensure medications and referrals to treatment upon release.** The Division of Pretrial Detention and Services needs to develop and implement an effective process for ensuring that people on medication receive a 30 day supply upon release. In addition to providing medication for people leaving the jail, they may need referrals to treatment for their varying ailments such as substance abuse or mental health issues or somatic issues like diabetes. A continuation of care from the jail facility to the community is another vital service that the Division of Pretrial Detention and Services and the City should collaborate on and provide to Baltimore residents.
- 7. Help people enroll in benefits before they are released.** Administrators and case managers in the jail should ensure that all eligible people are enrolled or re-enrolled in Medicaid upon release. They can start by screening for SSI, Medicaid and other benefits eligibility while the person is incarcerated, providing information and necessary forms to the eligible person and helping them to complete the applications while they

are still inside the jail. Through an agreement with the local Medicaid office in Baltimore, jail administrators can provide this important service. The jail can also help facilitate immediate access to services for people leaving the jail by storing their Medicaid cards with their personal identification cards instead of the rest of their property so that when people are released they don't have to go to a social services office to get a new one.

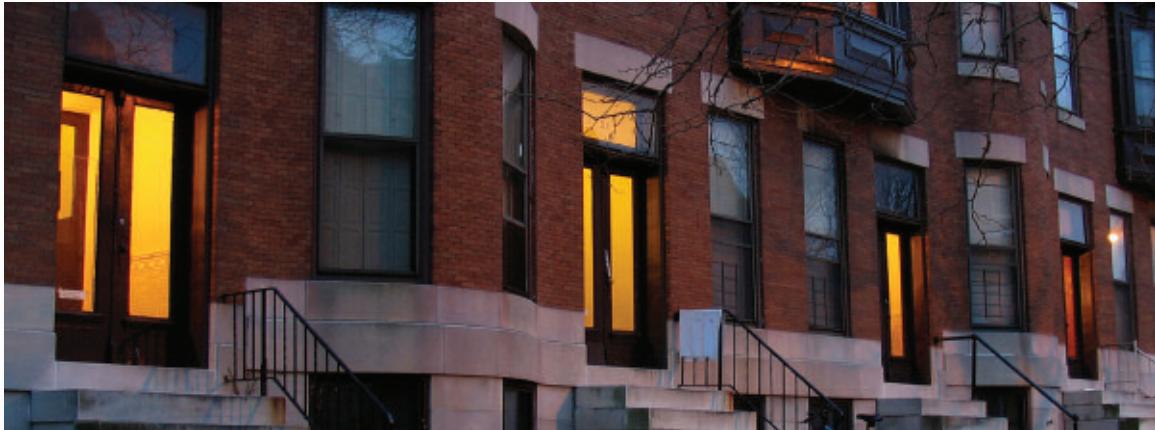
- 8. Improve personal property policies and procedures.** Jail staff should refrain from disposing of personal property belonging to people who are incarcerated pretrial. Because people in jail often face challenges when trying to arrange for others to pick up their property property room hours should be expanded so more people could pick up property and the jail could free up space to hold the property of people who are awaiting trial in the jail.
- 9. Coordinate re-entry services.** Baltimore lacks a coordinated re-entry system for people leaving the jail. Many jurisdictions around the country either have re-entry agencies run by the city or county, or they work with non-profits in their area to provide these immediate services to people leaving their local jails. Baltimore City and the State of Maryland should create such an agency or at a minimum a full-time staff position that would provide a case management system that

works with people while they are incarcerated and also connects them to an office close to the jail when they are released. This way there is a system in place to provide resources to people when they are most needed. This agency could keep files on each of its clients and provide case management and referrals to services like treatment, housing and employment that are critical to people leaving correctional facilities. The agency could be most effective if it was available right when people are released, as a first stop on their way back to the community. Providing these services to people after their release could have a great impact on their success in the community and reduce the likelihood that they will return to the jail.

10. Follow best practices and models.

The Division of Pretrial Detention and Services should utilize best practices in jail re-entry to reduce the number of people returning to the jail. The National Institute of Corrections and the Urban Institute just released the Transition from Jail to Community (TJC) Implementation Toolkit. This web-based learning resource is designed to guide jurisdictions through implementation of the TJC model, in whole or in part, and serves as a hands-on resource for users interested in jail re-entry, whether in a criminal justice or community-based organization. The Toolkit is available here: www.jailtransition.com/Toolkit.

CONCLUSION AND RECOMMENDATIONS



Of the 20 largest jails in the country, Baltimore City incarcerates the largest percentage of its residents. This presents policymakers with both challenges and opportunities, and multiple criminal justice agencies in Baltimore have already taken steps to try and reduce the jail population. But more needs to be done. Cities and counties around the country have been implementing innovative policies to help reduce their jail populations. At a time when states have little money to waste on ineffective policies and communities want to be safe, it is important that localities embrace the evidence-based program and policies that have been shown to work and will reduce the number of people in jails and the number of people who return to jails. There are a number of steps that Baltimore could take to improve its criminal justice system and reduce the number of people in the jail. Based on the research included in this report and best practices from around the country, we would like to make the following recommendations for reducing the number of people in the Baltimore jail and ensuring a fair and effective criminal justice system in Baltimore.

Recognize there are too many people in the jail, and set a goal for reducing the jail population.

As the current proposals for new facilities demonstrate, there is no broad acknowledgement by system stakeholders that the root problem facing the jail is that there are too many people held there for too long. A specific numeric goal should be set for jail population reduction—say a 20 percent decrease in three years—by all those who have a role in contributing to the population of the jail. This will create the sense of urgency and accountability

that will provide momentum for implementing necessary reforms.

Reform arrest, enforcement and diversion practices

- 1. Baltimore police should provide citations rather than arrests for certain offenses.** Baltimore should determine which policies and practices are causing more people to go to jail for offenses that do not create a public safety threat, like zero tolerance policies that incarcerate people for quality-of-life offenses.

About two-thirds of the people currently in the jail are incarcerated for nonviolent offenses. By reducing the number of people in jail for these types of offenses, resources and space could be directed toward people who may need to be detained for a public safety reason. There are a number of low-level misdemeanor offenses that may be better handled by issuing citations rather than arrest, including driving on a suspended license, shoplifting, violations of park rules, trespassing, disorderly conduct, alcohol-related offenses and possession of marijuana. Localities like New York City and some counties in Texas have already implemented such policies without any negative impact on public safety.

A decision to make a behavior a civil matter does not imply a decision to condone, permit, or not police such behavior. Instead, it opens up the possibility for re-integrative and non-adversarial solutions that can strengthen rather than undermine social order. Law enforcement responses to low-level, nonviolent offenses use up valuable time and costly resources from the courts, law enforcement, and the jail; subject individuals being arrested to unnecessary trauma and deprivation of liberty; and fail to address the underlying causes for the behaviors that led to a person's arrest. More appropriate and cost-effective responses need to be developed to replace the default mode of enforcement, financial penalties, and confinement.

2. **The courts should utilize “Receiving Centers” for early diversion to keep people from ever being incarcerated.** Salt Lake City (UT), Bexar County (TX), and Orange County (FL) currently utilize receiving centers where individuals who are picked up for non-serious or misdemeanor offenses can be

taken instead of jail to assess their needs, fingerprint them and check for any outstanding warrants. At this location the person can be released or diverted to an appropriate program (or sent to Central Booking if appropriate) without ever having to be booked, saving time and jail resources, while also providing services or resources for the person who was arrested.

3. **The Courts should divert people with mental health and drug treatment needs to the public health system and community-based treatment.** Research shows that people who have mental health or substance abuse problems are better served by receiving treatment in their community and that incarceration can exacerbate these problems. Treatment is more cost-effective than incarceration and promotes a positive public safety agenda. Even when treatment is available inside of a correctional facility, similar treatment in the community is more effective at reducing recidivism and also costs less.
4. **The Division of Parole and Probation should send fewer people to jail on violations of probation and follow a support model of probation supervision.** The number of people incarcerated in the Baltimore jail for violations of probation has been increasing over the last five years; around 500 people are currently detained in the jail on these violations. This increase could be for a number of reasons: probation officers are being more strict on reporting violations of probation; judges are setting higher bails for people who violate their probation that make it difficult for people to secure their release; or people are violating their probation more often,

possibly due to increasing difficulties in following the rules of probation, like maintaining employment, during these economic times. Research shows that the most effective probation systems are based on support and services, similar to Maryland's Proactive Community Supervision (PCS). As incarceration in the jail is the most expensive and ineffective modality of supervision, fully implementing the PCS program would result in fewer people incarcerated for violations of probation, freeing up jail space and better utilizing valuable resources.

Expand pretrial release and reform bail practices

5. **Maryland should fully utilize the Offender Case Management System (OCMS) to streamline the booking and records process.** The Maryland Department of Public Safety and Correctional Services is in the early stages of designing and implementing the Offender Case Management System (OCMS), which is a large and easily accessible database of people who have been or are currently involved in the Maryland criminal justice system. The development and rollout of this system will continue through 2010. This OCMS should help streamline records checks and make the booking and charging process faster and easier. Fully utilized, OCMS can increase the effectiveness of the criminal justice system in Baltimore and collect information that can be used to recommend needed services for people upon release.
6. **The courts and State's Attorney's Office should set up a mechanism for screening and recommending release on**

personal recognizance for people who are low risk, the same way recommendations are made on individuals who are high risk. The SAO investigates people with violent or serious histories in the War Room to make recommendations to the District Court Commissioner. This process could also be used for people with little or no criminal history who pose no threat to the community and are likely to return to court. Identifying more people at the outset who could be released will save money through reduced incarceration, less court time, and reduced workload of Pretrial Release Investigators.

7. **Pretrial investigators should provide public defenders with criminal history reports in the same timeframe as the prosecutors and judge to ensure fair representation.** Frequently the State's Attorney's Office and the judge receive pretrial reports earlier than counsel from the public defenders' office, making it difficult for counsel to adequately prepare to represent their clients at the bail review hearing. This may result in fewer people being released pretrial or the judge setting higher bail amounts because counsel cannot adequately defend their clients' fitness for pretrial release. While the Department of Public Safety and Correctional Services and the Office of the Public Defender are already starting to resolve this issue, the public defender's office still does not have the same access to records as other agencies.

In addition, providing more resources to the public defenders will help reduce caseloads and improve the quality of defense provided to each client. Quality legal counsel may have a positive impact on the number of people being held in the jail both pretrial and post-conviction.

8. **Baltimore Courts should reform the bail system.** Baltimore should expand its options for ensuring appearances at court beyond relying primarily on money bail. (See section below on expanding pre-release supervision.) This alone would reduce the influence of the commercial bail industry. If policymakers believe money bail should continue to play a role in the system, they should consider eliminating the commercial bail industry, reducing bail amounts and “cutting out the middle man.” With insufficient accountability structures in place, bail bondsmen are neither ensuring their clients show up for court, nor are being held financially accountable for full bail amounts when a client fails to appear. If not eliminated, at the very least commercial bail companies need to be more strongly regulated and those regulations enforced, to ensure they are complying with statutory obligations.
9. **Baltimore Courts should increase the number of people they refer to pretrial supervision by the Pretrial Release Supervision Program and the Division of Pretrial Detention and Services should expand this program.** Pretrial release is both less expensive and less harmful than pretrial incarceration. Individuals who are released pretrial can stay with their families and maintain employment and community ties, and be protected from some of the negative consequences of incarceration. The Pretrial Release Supervision Program has been shown to have low failure to appear rates and low re-arrest rates for people under its supervision, lower than the rest of the country. Increasing the number of people supervised under this program will reduce the jail population, potentially save millions of dollars and untold hours in court and law enforcement time in following up with warrants for people who do not show up to court.
- A number of organizations around the country work directly with localities on alleviating crowding in their jails and planning and implementing policies around pretrial release. Baltimore could solicit the help of one of these organizations to work with officials on improving specific policies and practices associated with pretrial release and incarceration.
10. **The Department of Public Safety and Correctional Services should continue to evaluate the effectiveness of the Violence Prevention Initiative program.** DPSCS already works with consultants to evaluate the Violence Prevention Initiative (VPI) program, but as it consumes a lot of law enforcement and court resources and the benefits are not yet proven, it should continuously be evaluated. An evaluation of the program’s effectiveness in terms of public safety, costs and life outcomes for people in the program is integral in determining whether it should be continued.
- Increase coordination between Baltimore agencies**
11. **Baltimore City and Maryland should foster greater coordination and understanding between agencies.** While the Criminal Justice Coordinating Committee is a promising place for individual agencies to meet and discuss emerging and ongoing issues within the justice system, a lack of communication and understanding between agencies still exists. Implementing an inter-agency council that includes both state and city agencies and requires some form of memorandum of understanding about

decisions regarding the jail could benefit both the State of Maryland and Baltimore City. Having greater coordination and collaboration between the city and state agencies involved in the jail system could greatly assist efforts to improve public safety while reducing the jail population and saving money. Furthermore, involving community organizations that work with people leaving the jail would provide valuable insight and give these groups a voice in the process.

12. **Baltimore City should establish mandatory community impact reports when agencies decide to change or implement new policies or practices.** When one part of the criminal justice system changes policy it affects all parts of the system, as well as the larger Baltimore community. Establishing community impact reports for agencies wishing to implement new policies will ensure that all agencies' needs are accounted for and that certain areas are not impacted more than others. For example, when the police decide to do a sweep of a certain neighborhood, this can have a strong impact on the jail population, not to mention on the neighborhood experiencing the sweep. Community impact reports are already used in places like Los Angeles, California and Harris County (Houston), Texas when new policies or structures are being considered.

Update court processes

13. **Baltimore Courts should set up a reminder system for people whose court date is approaching.** Multiple localities across the country are experimenting with both automated and live calling systems to remind people of their court dates, like the Court Appearance Notification System in

Multnomah County (Portland), Oregon or the Court Date Notification Program in Jefferson County (Denver), Colorado. Just as your doctor will call you the day before your appointment as a reminder, setting up a system of calling, emailing or texting individuals to remind them of their court date may reduce the number of failure to appears, saving the courts time and saving law enforcement resources.

14. **Baltimore Courts should reduce the length of time between arrest and court date and address the problem of postponements.** As it is now, some people are held pretrial for 30 or more days only to have their case dismissed or to receive probation without jail time or even to receive a shorter sentence than they have already served. In the meantime, individuals who have been locked up may have lost their jobs, had their education derailed, or not met child custody or support expectations. The judges in the Circuit Court have already started working on the problem of postponements through the Reception Court, but there is still a continuing problem with people staying in jail for long periods of time due to rescheduling trial dates. Focusing on providing timely and quality legal proceedings for individuals facing charges could reduce the length of pre-trial detention, saving money while also providing better outcomes for individuals who need to go to trial.

15. **Baltimore Courts should expand court hours.** Many cities, like New York, have instituted night and weekend courts to reduce backlogs of cases. While this will also require additional attorney resources, it will more than pay for itself by reducing the average length of stay of people in the jail. In addition,

with more regular court time available, it will reduce the need for the “special” courts such as the Early Resolution Court that can be seen as coercive. Lack of available, accurate court data is also hampering efforts to make the system more efficient. Some jurisdictions have engaged independent organizations that specialize in helping jurisdictions evaluate and improve upon their court systems. Working with one of these groups to make even small system changes could make the court process more efficient and fair.

16. **The Division of Parole and Probation and Baltimore Police Department should collect better data on violations of probation (VOP) to reduce the number of people being held in the jail for this offense.** As Judge Murdock at the Circuit Court said during her interview with JPI’s researcher, “How can I affect change if I don’t have the data available?” Currently it is difficult to tell from data who is being held for a violation of probation and who was arrested for a new offense. If it is a minor offense and the person is on probation, it may be easier administratively to hold them for violation of probation rather than open up a new case. However, this practice does not give an accurate sense of who is incarcerated for technical violations of probation like missed appointments or failing a drug test, versus the people who were arrested for a new and unrelated offense. Clarifying this inconsistency and collecting more accurate data on types of revocations and new offenses for people on probation can help to build better policy around who is detained and who is released.

17. **Baltimore Courts should close pending Violation of Probation (VOP) cases more quickly.** The courts only hear VOP cases once a month and sometimes even less frequently. This means that if an individual on probation is picked up on a technical violation that warrants arrest he could be detained for 30 days or more waiting to see a judge. Increasing the frequency at which these cases are heard, through more collateral docket days or allowing VOP cases to be heard on regular dockets, will lead to fewer jail days for individuals in this situation and allow them to remain in the community so they can maintain employment and be with their families.

Provide more, and better, re-entry services

18. **Maryland and Baltimore should provide more funding for front-end services such as education, employment, treatment and housing.** Research has shown that education, employment, drug treatment, health care, and the availability of affordable housing coincide with better outcomes for people leaving correctional facilities. Jurisdictions that spend more money on these services are likely to experience lower crime rates and lower incarceration rates. An increase in spending on education, employment and other services not only would improve public safety, but also would enhance and enrich the community to the benefit of all Baltimore residents. Issues around “who pays for what” could be resolved so that one level of government or part of the system doesn’t bear the costs while another reaps the savings.

- 19. Baltimore City and the Division of Pretrial Detention and Services should establish a coordinated re-entry office.** With the thousands of people who cycle in and out annually, the jail and the entire criminal justice system in Baltimore have the opportunity to reach people with appropriate services that they may not be receiving in the community. Creating a position or office within the jail that is connected to an office outside of the jail to assist in coordination and continuation of re-entry services can lead to positive outcomes for people who need services when they are released.
- 20. The Division of Pretrial Detention and Services should improve conditions at the jail.** As crowding, unsanitary conditions and lack of services in the correctional facilities is associated with poorer outcomes after release, improvements to the jail environment could have a positive impact on public safety.
- 21. Jail administrators should maintain a regular daily schedule of times and places for releases from the jail to help city and community agencies plan their re-entry services.** With some people being released in the middle of the night and others throughout the day it is difficult to pinpoint good times for services to be made available. Identifying set hours for services could focus resources at the most opportune times to reach the most people.
- 22. Judges and the courts should refer more people to substance abuse treatment and diversion programs.** As around half of the people leaving the Baltimore jail may have a substance abuse problem it seems prudent that treatment be made available to help ensure better outcomes. While treatment in the community is shown to be more effective than treatment in jails, providing appropriate treatment opportunities for people while they are incarcerated can make a difference. Judges should increase the number of people they refer to treatment and work with Division of Pretrial Detention and Services to offer more treatment services in the jail.
- 23. The Division of Pretrial Detention and Services should consistently provide people with 30 day supplies of medication and referrals for treatment as necessary for people leaving the jail.** In addition, the jail should partner with local Medicaid offices to help people re-enroll in Medicaid and other federal benefits to ensure a continuation of care once they are released to the community. This partnership will benefit people who require these services to maintain good health and treatment as well as the communities to which they return. Providing re-entry services such as medication and referrals for treatment can mean the difference between someone succeeding in the community and returning to the jail.
- 24. The Division of Pretrial Detention and Services should improve its policies and procedures on personal property.** Many people in the jail face challenges when trying to have their personal property picked up by people outside the jail and their property is destroyed if it is not picked up within 30 days of arrest. Property hours are only from 10 a.m. to 2 p.m. often making it difficult for people to claim property, whether they are picking it up for someone else or they are being

released from jail and want to gather their own things. Jail administrators should expand these hours and also implement a policy that people who are pretrial do not have their property

destroyed. This will allow for more people to pick up their property and for people to be released with their personal property, which can include important things like coats and wallets.

The unique design of the Baltimore criminal justice system calls for innovative policies and practices to support safe and strong communities in Baltimore. Both Baltimore City and the State of Maryland have a stake in making this happen through their separate, but connected, roles in the justice system. The construction of two additional jail facilities in Baltimore City, at the expense of all Maryland taxpayers, will have a lasting impact on the number of people incarcerated in Baltimore and ultimately the state. Exploring alternatives to increasing the number of jail beds in Baltimore will save money in the long run and create more opportunities for people directly affected by the system. Baltimore and Maryland are at a critical point with their jail and their budgets, and implementing effective policies that are shown to reduce jail populations and costs associated with the criminal justice system and improve communities can have lasting benefits to all Maryland residents.



Baltimore locks up the highest percentage of its population out of the top 20 largest jails in the country

The 20 largest jails in the U.S., ranked by percent of population incarcerated in the local jail

Jurisdiction	Total Population 2008/2009	Average daily jail population, 2008	% of jurisdiction's population in jail
1 Baltimore City, MD	637,418	4,010	0.629%
2 Shelby County, TN	920,232	5,765	0.626%
3 Philadelphia City, PA	1,447,395	8,811	0.609%
4 Orange County, FL	1,086,480	4,294	0.395%
5 Hillsborough County, FL	1,195,317	3,985	0.333%
6 Sacramento County, CA	1,400,949	4,563	0.326%
7 Broward County, FL	1,766,476	5,500	0.311%
8 Alameda County, CA	1,491,482	4,371	0.293%
9 Miami-Dade County, FL	2,500,625	7,050	0.282%
10 San Bernardino County, CA	2,017,673	5,593	0.277%
11 Santa Clara County, CA	1,784,642	4,660	0.261%
12 Dallas County, TX	2,451,730	6,385	0.260%
13 Bexar County, TX	1,651,448	4,062	0.246%
14 Harris County, TX	4,070,989	10,000	0.246%
15 Maricopa County, AZ	4,023,132	9,265	0.230%
16 Los Angeles County, CA	9,848,011	19,836	0.201%
17 Orange County, CA	3,026,786	6,000	0.198%
18 Cook County, IL	5,287,037	9,900	0.187%
19 San Diego County, CA	3,053,793	5,363	0.176%
20 New York City, NY	8,363,710	13,849	0.166%

Sources: U.S. Census Bureau, Population Finder, www factfinder census gov; Todd D. Minton and William J. Sabol, Jail Inmates at Midyear 2008 (Washington, D.C.: Bureau of Justice Statistics, 2009), <http://bjs ojp usdoj gov/content/pub/pdf/jim08st pdf>

V

Arraignment - usually a person's first appearance in court or before a judge on a criminal charge. At arraignment, the charges against them will be read or the person will be asked if he/she is aware of the charges against them, and will be asked how they wish to plead. It is not a hearing to determine guilt or innocence. Court dates are often set at arraignment.

Booked/Booking - a procedure at a jail or police station following an arrest in which information about the arrest (such as the time, the name of the arrested person, and the crime for which the arrest was made) is entered in the police register. At this time the person who was arrested has their personal information and criminal record reviewed and entered into the system, and he or she is fingerprinted and photographed.

Central Home Detention Unit (CDHU) - People in the Central Home Detention Unit (CDHU) are being supervised and electronically monitored in their home rather than in the jail. Home detention participants are supervised 24 hours a day, 7 days a week. In the CHDU office, police communications operators monitor the computer stations continuously. Case managers/parole officers provide ongoing counseling and work placement services. Certified personnel prescribe treatment plans that may include drug/alcohol treatment, education, and crisis intervention counseling. The program also utilizes urinalysis to monitor drug use.

Detainer - a notification sent by a prosecutor, judge, or other official advising a jail official that a person in their jail is wanted to answer charges for another jurisdiction or agency and requesting continued detention of the person or notification of the person's impending release. Detainers may include open warrants from other counties or states and other issues that may cause the person to not be permitted to leave the facility.

District Court Commissioner - Person appointed by the district court judge who makes the initial decision as to whether accused indi-

viduals can be released from jail before trial and sets bail amounts.

Kaizen - A meeting held to facilitate more effective processes within a system-in this case, the criminal justice system in Maryland. Kaizen literally means "change is good."

Nolle Prosequi - an entry in a criminal action denoting that the prosecutor will not prosecute the case further in whole or as to one or more of several counts or one or more of several people charged. When a nolle prosequi has been entered on a charge, any conditions of pretrial release on that charge are terminated, and any bail bond posted for the person on that charge shall be released.

Pre-Trial - Existing or occurring before the trial.

Sally Port - a secure entryway (as at the Central Booking and Intake Center) that consists of a series of doors or gates. This is the primary entrance to Central Booking before an individual is screened.

Sub-Curia - means that the court is holding the motion for sentence modification until such a time as the defendant or his attorney, if applicable, notifies it that they are ready to proceed on the hearing. This usually happens when, for example, the modification will only be granted if the defendant completes something like drug/alcohol treatment or anger management. The reason it must be held sub curia is because this motion is due within 90 days of sentencing, but the defendant wants to wait longer than that for the hearing to take place.

Violent Repeat Offender - defined by the State's Attorney's Office as:

1. An offender who is on probation or parole for a crime of violence (COV) or firearm offense and is arrested on any offense.
2. An offender who is charged with a COV or firearm offense and is on probation or parole for any offense.

3. An offender who is charged with a COV or firearm offense and is pending a COV, firearm offense, or felony narcotics case.
4. An offender who has been identified as a VRO by law enforcement agencies.

Volunteers of America - operates a Supervised Residential Facility providing a secure 24 hour supervised residence for men with misdemeanor and minor felony charges which is designed to alleviate overcrowded conditions at

the Baltimore City Detention Center.

War Room - an interagency effort that carefully reviews the cases of people involved in violent or serious offenses to make more informed decisions as to their safe release to the community pretrial. The Department of Pretrial Detention and Services (DPDS), the Division of Parole and Probation (DPP), the Baltimore City Police Department and the State's Attorney's Office (SAO) are all involved in the War Room review process.



- ¹ 19th largest local jail jurisdiction. Todd D. Minton and William J. Sabol, *Jail Inmates at Midyear 2008* (Washington, D.C.: Bureau of Justice Statistics, 2009), <http://bjs.ojp.usdoj.gov/content/pub/pdf/jim08st.pdf>, p. 7
- ² Division of Pretrial Detention and Services
- ³ Department of Public Safety and Correctional Services
- ⁴ Division of Pretrial Detention and Services population briefing for the Baltimore Criminal Justice Coordinating Council
- ⁵ Division of Pretrial Detention and Services Daily Population Report, January 4, 2010
- ⁶ U.S. Census Bureau, Population Finder, www.factfinder.census.gov; Todd D. Minton and William J. Sabol, 2009
- ⁷ FBI Uniform Crime Reports, Crime in the United States, www.fbi.gov/ucr/ucr.htm
- ⁸ See Justice Policy Institute, Public Safety Research, www.justicepolicy.org
- ⁹ Maryland Department of Budget and Management, *FY 2011 Proposed Operating Budget Detail, Volume II, Public Safety and Correctional Services* (Annapolis, MD: Maryland Department of Budget and Management, 2010) <http://dbm.maryland.gov/agencies/operbudget/Documents/2011/Proposed/pubsafcor.pdf>
- ¹⁰ Julie Bykowicz, "Md. moving forward on detention center projects," *The Baltimore Sun*, August 20, 2009
- ¹¹ A Kaizen is a meeting held to facilitate more effective processes within a system, in this case the criminal justice system in Baltimore.
- ¹² Todd D. Minton and William J. Sabol, 2009, Table 7.
- ¹³ Department of Public Safety and Correctional Services, www.msa.md.gov/msa/mdmanual/22dpscs/html/22agen.htm#central
- ¹⁴ Chapter 59, Acts of 1991
- ¹⁵ From now on in this report, the Central Booking and Intake Center will be referred to as "Central Booking." The Baltimore City Detention Center, which includes the Women's Detention Center and other buildings in the jail complex that hold people pretrial and for short sentences, will be referred to as the "Detention Center." The entirety of the jail complex, including the Central Booking and the Detention Center, will be referred to as the "Baltimore jail."
- ¹⁶ Division of Pretrial Detention and Services Daily Population Report, January 4, 2010
- ¹⁷ Todd D. Minton and William J. Sabol, 2009, Table 7.
- ¹⁸ Department of Public Safety and Correctional Services, www.msa.md.gov/msa/mdmanual/22dpscs/html/22agen.htm#central
- ¹⁹ Maryland Department of Budget and Management, 2010
- ²⁰ Personal interviews
- ²¹ Personal interview, Baltimore City Official, February 3, 2010
- ²² See Edward Ericson Jr., "Justice Undone: City State's Attorney Patricia Jessamy Asserts At Hearing That Police Arrest Tactics Are Unconstitutional," *Baltimore City Paper*, January 11, 2006 www.citypaper.com/news/story.asp?id=11331
- ²³ In a class-action lawsuit filed against the Baltimore City Police Department in June 2006 (*NAACP v. BPD*), the ACLU charges that Baltimore police arrest thousands of people without just cause each year. The suit targets both city and state officials for their role in making illegal arrests and mistreating the wrongfully arrested at Central Booking. Source: American Civil Liberties Union, "New Plaintiffs Join ACLU Illegal Arrests Lawsuit, Call on City Police to Finally End Unconstitutional Practices", December 2007. www.aclu.org/free-speech/new-plaintiffs-join-aclu-illegal-arrests-lawsuit-call-city-police-finally-end-unconstitu
- ²⁴ Division of Pretrial Detention and Services Population Briefing for the Criminal Justice Coordinating Council
- ²⁵ Division of Pretrial Detention and Services Population Briefing for the Criminal Justice Coordinating Council
- ²⁶ American Civil Liberties Union, December 2007.
- ²⁷ Division of Pretrial Detention and Services Population Briefing for the Criminal Justice Coordinating Council, March 2010
- ²⁸ Baltimore Police Department, Quality Assurance Unit, Planning and Research Section, as reported to the Uniform Crime Reporting Unit of the Maryland State Police, provided March 30, 2010.
- ²⁹ Division of Pretrial Detention and Services Population Briefing for the Criminal Justice Coordinating Council, March 2010
- ³⁰ Phillip Beatty and others, *The Vortex: The Concentrated Impact of Drug Imprisonment and the Characteristics of Punitive Counties* (Washington, D.C.: Justice Policy Institute, 2007) www.justicepolicy.org/images/upload/07-12_REP_Vortex_AC-DP.pdf
- ³¹ Division of Pretrial Detention and Services, Population Briefing presented to the Criminal Justice Coordinating Council, March 2010.
- ³² Maryland State budget documents, provided by Division of Pretrial Detention and Services
- ³³ Maryland Department of Budget and Management, 2010
- ³⁴ Division of Pretrial Detention and Services
- ³⁵ Volunteers of America operates a Supervised Residential Facility which is designed to alleviate overcrowded conditions at the Baltimore City Detention Center, providing a secure 24 hour supervised residence for men with misdemeanor and minor felony charges.
- ³⁶ People in the Central Home Detention Unit (CHDU) are being supervised and electronically monitored in their home rather than in the jail. Home detention participants are supervised 24 hours a day, 7 days a week. In the CHDU office, police communications operators monitor the computer stations continuously. Case managers/parole officers provide ongoing counseling and work placement services. Certified personnel prescribe treatment plans that may include drug/alcohol treatment, education, and crisis intervention counseling. The program also utilizes urinalysis to monitor drug use.

³⁷ Sub curia means that the court is holding the motion for sentence modification until such a time as the defendant or his attorney, if applicable, notifies it that they are ready to proceed on the hearing. This usually happens when, for example, the modification will only be granted if the defendant completes something like drug/alcohol treatment or anger management. The reason it must be held sub curia is because this motion is due within 90 days of sentencing, but the defendant wants to wait longer than that for the hearing to take place.

³⁸ Maryland Department of Budget and Management, 2010

³⁹ Division of Pretrial Detention and Services Populations Briefing for the Criminal Justice Coordinating Council, March 2010

⁴⁰ Division of Pretrial Detention and Services

⁴¹ Analysis of the FY 2011 Maryland Executive Budget, 2010, New Youth Detention Facility (Baltimore City) http://house.state.md.us/2010rs/budget_docs/all/Capital/QP00A_-_New_Youth_Detention_Facility.pdf

⁴² Julie Bykowicz, "Md. moving forward on detention center projects," *The Baltimore Sun*, August 20, 2009

⁴³ Commissioner Bealefeld's report to Baltimore Criminal Justice Coordinating Council Meeting, March 2010

⁴⁴ Just Kids: A Partnership to End the Incarceration of Youth in Adult Jails, Position Paper on the Construction of a New Youth Detention Center in Baltimore City, March 30, 2010

⁴⁵ For more information on the Juvenile Detention Alternatives Initiative, please visit www.jdaihelpdesk.org/

⁴⁶ Howard N. Snyder and Michelle Sickmund, *Juvenile Offenders and Victims: 2006 National Report* (Washington, D.C.: Office of Juvenile Justice and Delinquency Prevention, 2006)

⁴⁷ Jail Daily Extract, January 4, 2010, provided by Division of Pretrial Detention and Services

⁴⁸ This data was not disaggregated by new offense versus technical violation of probation.

⁴⁹ Maryland Department of Budget and Management, 2010

⁵⁰ Maryland Department of Budget and Management, 2010 <http://dbm.maryland.gov/agencies/operbudget/Documents/2011/Proposed/pubsafcor.pdf>

⁵¹ Maryland Department of Budget and Management, Budget Books FY02-FY11.

⁵² Maryland Department of Budget and Management, 2010

⁵³ FY2011 budget (\$5,863,646)/Average number of people supervised yearly (6,500)/365=\$2.47/day

⁵⁴ Detention Center: 1,000 people x \$100/day x 30 days=\$3,000,000

Pretrial Release Supervision Program: 1,000 people x \$2.5/day x 30 days=\$75,000

Difference=\$2,925,000

⁵⁵ A national study of people in jails across the country found that in 2002, 68 percent of people in jails suffered with dependence or abuse of alcohol or drugs. Maryland jail

population (3,628) x 68% = 2,467 people with dependence or abuse. Source: Jennifer C. Karberg and Doris J. James, *Substance Dependence, Abuse, and Treatment of Jail Inmates, 2002* (Washington, D.C.: Bureau of Justice Statistics, 2005) <http://bjs.ojp.usdoj.gov/content/pub/pdf/sdatji02.pdf>

⁵⁶ Maryland Department of Budget and Management, 2010, pages 676-677

⁵⁷ Steve Aos and others, *The Comparative Costs and Benefits of Programs to Reduce Crime* (Olympia, Washington State Institute for Public Policy, 2001) www.wsipp.wa.gov

⁵⁸ The process for women being booked is nearly identical as for men, but women are separated from the men at booking and throughout the entire detention process.

⁵⁹ The DPSCS website says that the booking process should take less than 4 hours, and all people are booked and receive an initial hearing with the commissioner in less than 24 hours. www.msa.md.gov/msa/mdmanual/22dpacs/html/22agen.html

⁶⁰ If an individual's case is dismissed or if they are acquitted of the charges, the DNA sample is destroyed.

⁶¹ A Violent Repeat Offender is defined by the State's Attorney's Office as:

- An offender who is on probation or parole for a crime of violence (COV) or firearm offense and is arrested on any offense.
- An offender who is charged with a COV or firearm offense and is on probation or parole for any offense.
- An offender who is charged with a COV or firearm offense and is pending a COV, firearm offense, or felony narcotics case.
- An offender who has been identified as a VRO by law enforcement agencies.

⁶² Governor's Office of Crime Control and Prevention, *War Room Project Progress Report, 10/1/2009 to 12/31/2009*, Presented to Baltimore Criminal Justice Coordinating Council in March 2010.

⁶³ A class action, right-to-counsel lawsuit has been filed under *Richmond v. District Court* to allow people to have counsel at initial bail hearings, but no decision has been made by the court at the time of this publication. See text box *Debate: Should people have lawyers available at the initial bail hearing?*

⁶⁴ The Abell Foundation, *The Pretrial Release Project: A Study of Maryland's Pretrial Release and Bail System* (Baltimore, MD: The Abell Foundation, 2001) www.abell.org/pubsitems/hhs_pretrial_9.01.pdf Appendix D: 1998 AND 1999 Commissioner's Report – Initial Appearance, Tables 8(a) – 8(d)

⁶⁵ Detainers include open warrants from other counties or states and other issues that may cause the person to not be permitted to leave the facility.

⁶⁶ Women are moved to the Women's Detention Center to await bail review.

⁶⁷ Personal interview, Assistant Warden Carolyn Scruggs of the Central Booking and Intake Center, January 2010

⁶⁸ In *Stack*, the Supreme Court wrote that release before trial was “conditioned upon the accused’s giving assurance that he will stand trial and submit to punishment if found guilty,” and that bail “must be based on standards relevant to the purpose of assuring the presence of defendants.” *Stack v. Boyle* (342 U.S. 1 (1951))

⁶⁹ In 1987 in *U.S. v. Salerno* (481 U.S. 739), the U.S. Supreme Court upheld the constitutionality of pretrial detention under the “danger” provision of the Federal Bail Reform Act of 1984. It declared “preventing danger to the community” to be “a legitimate regulatory goal.”

⁷⁰ Division of Pretrial Detention and Services Populations Briefing for the Criminal Justice Coordinating Council

⁷¹ Average End of Month population by inmates who must post a single bail of \$5,000 or less to be released, who do not have detainers. Source: Division of Pretrial Detention and Services population briefing for the Criminal Justice Coordinating Council

⁷² Detainers include open warrants from other counties or states and other issues that may cause the person to not be permitted to leave the facility.

⁷³ Jail Daily Extract, January 4, 2010, provided by Division of Pretrial Detention and Services

⁷⁴ The Abell Foundation, 2001

⁷⁵ The Abell Foundation, 2001

⁷⁶ State Court Processing Statistics, 2002

⁷⁷ Jail Daily Extract, February 17, 2010

⁷⁸ The Abell Foundation, *The Pretrial Release Project: A Study of Maryland’s Pretrial Release and Bail System* (Baltimore, MD: The Abell Foundation, 2001) www.abell.org/pubsitems/hhs_pretrial_9.01.pdf Survey of Bail Practices in Five Maryland Counties

⁷⁹ The Abell Foundation, 2001, Survey of Bail Practices in Five Maryland Counties

⁸⁰ Center for Poverty Solutions, *Barriers to Stability: Homelessness and Incarceration’s Revolving Door in Baltimore City* (Baltimore, MD: Center for Poverty Solutions, 2002) www.soros.org/initiatives/baltimore/articles_publications/publications/barriersstability/barriers_to_stability.pdf

⁸¹ The Abell Foundation, 2001, Survey of Bail Practices in Five Maryland Counties

⁸² Thomas H. Cohen, Ph.D. and Brian A. Reaves, Ph.D, *Pre-trial Release of Felony Defendants in State Courts* (Washington, D.C.: Bureau of Justice Statistics, 2007)

⁸³ Laura Sullivan, “Bail Burden Keeps U.S Jails Stuffed With Inmates,” *National Public Radio*, January 21, 2010. www.npr.org/templates/story/story.php?storyID=122725771

⁸⁴ Nancy Phillips and Craig R. McCoy, “Phila. D.A. says bail system is ‘broken,’ ” The Philadelphia Inquirer, January 20, 2010.

⁸⁵ *The Truth About Commercial Bail Bonding in America* (Washington, D.C.: The National Association of Pretrial Services Agencies, 2009).

⁸⁶ Laura Sullivan, January 21, 2010.

⁸⁷ Chris Landers, “Cashing Out: The bail bonds industry in Baltimore is huge, complicated, and largely unregulated,” *Baltimore City Paper*, July 2, 2008; Melissa Harris, “In Md., many get discount on bail,” The Baltimore Sun, February 20, 2008, http://articles.baltimoresun.com/2008-02-20/news/0802200092_1_bondsman-bail-bondsman

⁸⁸ The Abell Foundation, 2001.

⁸⁹ Division of Pretrial Detention and Services Population Briefing for the Criminal Justice Coordinating Council, March 2010

⁹⁰ Thomas H. Cohen and Brian A. Reaves, *Felony Defendants in Large Urban Counties, 2002* (Washington, D.C.: Bureau of Justice Statistics, 2006) Table 20. <http://bjs.ojp.usdoj.gov/content/pub/pdf/fdluc02.pdf>

⁹¹ Thomas H. Cohen and Brian A. Reaves, 2006, Table 21.

⁹² See footnote 52. Maryland Department of Budget and Management, 2010, 676-677.

⁹³ Office of Probation and Pretrial Services, *Benefits of Supervision* (Administrative Office of the U.S. Courts, 2007) www.ksp.uscourts.gov/about/InternetBenefits_of_Supervision1.pdf

⁹⁴ Analysis of the Jail Daily Extract, February 17, 2010, provided by Division of Pretrial Detention and Services

⁹⁵ Aimee Green, “Wake-Up Call: You Are Due in Court,” *The Oregonian*, October 17, 2007. www.co.multnomah.or.us/dcj/oregonlivewakeupcall101707.pdf

⁹⁶ Jefferson County, Colorado, *Court Date Notification Program: Six Month Program Summary*. (Jefferson County, Colorado: Jefferson County Criminal Justice Strategic Planning Committee, 2007). www.co.jefferson.co.us/jeffco/cjp_uploads/Jeffco_CDN_Six_Month_Report.pdf

⁹⁷ Thomas H. Cohen and Brian A. Reaves, 2006

⁹⁸ Division of Pretrial Detention and Services Populations Briefing for the Criminal Justice Coordinating Council

⁹⁹ Some of the \$100/day jail costs (such as administration and physical plant) will only be reduced if the reduction in population results in downsizing staff or physical plant.

¹⁰⁰ 37,744 people x 5 days x \$100=\$18,872,000

¹⁰¹ <http://mdcourts.gov/district/about.html>

¹⁰² Justice Matters, *Baltimore’s Early Resolution Court Combines Justice, Fast Disposition*, www.courts.state.md.us/district/archive/earlyresolution.pdf

¹⁰³ Baltimore City State’s Attorney’s Office, Annual Statistical Report, January thru December 2009, Presented to Baltimore City Criminal Justice Coordinating Council meeting, March 2010

¹⁰⁴ Michael J. Kelly and Efrem Levy, *Making the “System” Work in the Baltimore Criminal Justice System: An Evaluation of Early Disposition Court* (Prepared for the Baltimore Efficiency & Economy Foundation, March 2002)

¹⁰⁵ Baltimore City State’s Attorney’s Office, Annual Statistical Report, March 2010

¹⁰⁶ Faye S. Taxman and Lori Elis, “Expediting Court Dispositions: Quick Results, Uncertain Outcomes,” *Journal of Research in Crime and Delinquency* 36, no. 30 (1999), page 49

¹⁰⁶ Faye S. Taxman and Lori Elis, 1999, page 49

¹⁰⁷ The State's Attorney may terminate a prosecution on a charge and dismiss the charge by entering a nolle prosequi on the record in open court. When a nolle prosequi has been entered on a charge, any conditions of pretrial release on that charge are terminated, and any bail bond posted for the person on that charge shall be released.

¹⁰⁸ Baltimore City State's Attorney's Office, March 2010

¹⁰⁹ See, for example, Anne Rankin, "The Effect of Pretrial Detention," *New York University Law Review* 39 (1964), 641–655; Michael R. Gottfredson and Don M. Gottfredson, *Decision Making in Criminal Justice: Toward a Rational Exercise of Discretion* (New York: Plenum Press, 1988); Williams, "The Effect of Pretrial Detention on Imprisonment Decisions," 299–316; C. E. Frazier and J.K. Cochran, "Detention of Juveniles: Its Effects on Subsequent Juvenile Court Processing and Decisions," *Youth and Society* 17, no. 3 (1986): 286-305

¹¹⁰ Rod Morgan, "England/Wales," in Dünkel and Vagg, *Waiting for Trial*, 198.

¹¹¹ Ryan J. Reilly, "Marshals Gear Up For Summer 'Safe Surrenders,'" *Main Justice*, April 12, 2010. www.mainjustice.com/2010/04/12/marshals-gear-up-for-summer-safe-surrenders/

¹¹² Court Services and Offender Supervision Agency, District of Columbia, "Fugitive Safe Surrender in Washington DC- Radio Transcript," April 2008. <http://media.csosa.gov/podcast/transcripts/2008/04/fugitive-safe-surrender-in-washington-dc-radio-transcript/>

¹¹³ United States Marshals Service, "Fugitive Safe Surrender-Camden," November 2008. www.justice.gov/marshals/safesurrender/camden.htm

¹¹⁴ Justin Fenton, "City Seeking to Draw in Fugitives," *Baltimore Sun*, March 13, 2009. www.baltimoresun.com/news/local/baltimore_city/bal-md.ci.surrender13mar13,0,416589.story

¹¹⁵ United States Marshals Service, "Fugitive Safe Surrender- Detroit," June 2008. www.justice.gov/marshals/safesurrender/detroit.htm

¹¹⁶ United States Attorney's Office for the District of Maryland, "More Than 140 Suspects Arrested in Baltimore Roundup," December 2007. www.justice.gov/usao/md/PublicAffairs/press_releases/press07/MoreThan140SuspectSArrestedinBaltimoreFugitiveRoundup.html

¹¹⁷ The two sets of courts are located at Courthouse East and Mitchell Courthouse. Each courthouse has its own arraignment court, reception court, and four trial courts.

¹¹⁸ Baltimore City Circuit Court, Criminal Docket—Policies and Procedures, Accessed March 8, 2010, www.baltocts.state.md.us/criminal/crim-pract.htm

¹¹⁹ Baltimore City Circuit Court, Criminal Docket—Policies and Procedures, Accessed March 8, 2010,

¹²⁰ Data provided by Bruce Brown, Division of Parole and Probation, Baltimore City, April 1, 2010.

¹²¹ Personal Interview with Judge M. Brooke Murdock, Judge-in-Charge, Baltimore City Circuit Court, Criminal

Division, March 4, 2010.

¹²² Personal Interview with Judge M. Brooke Murdock, March 4, 2010.

¹²³ Md. Rule 4-271

¹²⁴ The State of Maryland requires all people to be tried in 180 days after their attorney's make their initial appearance before the court (Hicks rule— Md. Rule 4-271), but a person who is being charged can waive this right to a speedy trial (Hicks waiver).

¹²⁵ Governor's Office of Crime Control and Prevention, *Maryland's Comprehensive State Crime Control and Prevention Plan2009 -2011* (Towson, MD: GOCCP) www.goccp.maryland.gov/documents/crime-plan09-11.pdf

¹²⁶ Data provided by Bruce Brown, Division of Parole and Probation, Baltimore City, April 1, 2010.

¹²⁷ Personal interview with Bruce Brown, Division of Parole and Probation, Baltimore City, April 1, 2010

¹²⁸ In 1996, two thirds of released individuals returned to a city, up from 50 percent in 1984. Source: Lynch and Sabol, *Prisoner Reentry in Perspective* (Washington, D.C.: The Urban Institute, 2001) cited in La Vigne and others, *A Portrait of Prisoner Reentry in Maryland* (Washington, D.C.: The Urban Institute, 2003), pg. 3. www.urban.org/UploadedPDF/410655_MDPPortraitReentry.pdf

¹²⁹ Rachel L. McLean, Jacqueline Robarge, and Susan G. Sherman, "Release from Jail: Moment of Crisis or Window of Opportunity for Female Detainees?" *Journal of Urban Health: Bulletin of the New York Academy of Medicine* 83, no.3 (2006): 382-393

¹³⁰ Adam Van de Water, *Legislative Analyst Report: Criminal Justice Offender Profile* (San Francisco, CA: City and County of San Francisco Board of Supervisors, 2003).

¹³¹ John Roman and others, *Impact and Cost-Benefit Analysis of the Maryland Reentry Partnership Initiative* (Washington, DC: The Urban Institute, 2007), pg. i.

¹³² Stories were obtained through personal interviews, Spring 2010

¹³³ Marc L. Zayon of Roland Walker & Marc L. Zayon, P.A. www.walkerzayon.com

¹³⁴ For more information, please see the Maryland Re-Entry Partnership website, www.catholiccharities-md.org/our-daily-bread/rd-reentry/

¹³⁵ See Melissa Sorger, "Breaking the cycle for ex-cons," *The Examiner*, March 14, 2008. www.examiner.com/a-1278056-Breaking_the_cycle_for_ex_cons.html

¹³⁶ We Can Achieve provides mentoring, consulting and educational services like writing curriculum and providing technical assistance.

¹³⁷ Baltimore Rising, Inc. is a quasi-governmental, non-profit organization that provides family strengthening and a variety of services and supports in Baltimore to help people released from prison or jail and to families and communities. For more information, please see their website at www.baltimorecity.gov/Government/QuasiAgencies/BaltimoreRisingInc.aspx

- ¹³⁸ Ralph F. Boyd, *Investigation of Conditions at the Baltimore City Detention Center* (United States Department of Justice; Civil Rights Division, 2002). www.usdoj.gov/crt/split/documents/baltimore_findings_let.php
- ¹³⁹ *The Baltimore Sun*, "Inhuman and Unconscionable," August 20, 2009, http://articles.baltimoresun.com/2009-08-20/news/0908190053_1_prisoners-health-care-medical-care
- ¹⁴⁰ American Civil Liberties Union, "ACLU Forces Sweeping Improvements at Baltimore City Jail." August 2009. www.aclu.org/prisoners-rights/aclu-forces-sweeping-improvements-baltimore-city-jail
- ¹⁴¹ See Testimony of Professor Craig Haney, *Prison Overcrowding: Harmful Consequences and Dysfunctional Reactions* (Commission on Safety and Abuse in America's Prisons, 2006) www.prisoncommission.org/statements/haney_craig.pdf
- ¹⁴² F. DiCataldo and others, "Screening Prison Inmates for Mental Disorder: An Examination of the Relationship Between Mental Disorder and Prison Adjustment," *Bulletin of the American Academy of Psychiatry and Law* 23 (1995): 573, 574.
- ¹⁴³ Division of Correction Frequently Asked Questions, www.baltimorecountymd.gov/Agencies/corrections/faq.html#anchor33
- ¹⁴⁴ Power Inside is a multidisciplinary program that is committed to building self-sufficiency and preventing incarceration among women and families in Baltimore through direct client services, advocacy, leadership development and public education. Visit them at www.powerinside.org
- ¹⁴⁵ Rachel L. McLean, Jacqueline Robarge, and Susan G. Sherman, 2006.
- ¹⁴⁶ Flower, S., Britt, T., Brooks, R., Lewis, J., & Robarge, J. (2009) The Window Replication Project: A survey conducted by Choice Research Associates and commissioned by Power Inside, the Baltimore City Mayor's Office of Criminal Justice, the Division of Pretrial Detention and Services of the Maryland Department of Public Safety and Correctional Services, and Catholic Charities of Baltimore. *A Preliminary Analysis of Survey Results* (unpublished report). Baltimore, MD.
- ¹⁴⁷ Rachel L. McLean, Jacqueline Robarge, and Susan G. Sherman, 2006
- ¹⁴⁸ Flower, S., Britt, T., Brooks, R., Lewis, J., & Robarge, J. 2009
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- ¹⁵⁴ Flower, S., Britt, T., Brooks, R., Lewis, J., & Robarge, J. 2009.
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