

Commission to Reform Maryland's Pretrial System

Final Report

December 19, 2014

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EXECUTIVE SUMMARY

The Governor’s Commission to Reform Maryland’s Pretrial System (“the Commission”) was established by Executive Order¹ on May 27, 2014 to gather experts and interested parties, with the goal of developing recommendations to ensure that Maryland operates the best possible statewide pretrial system. The Commission was preceded by the Task Force to Study the Laws and Policies Relating to Representation of Indigent Criminal Defendants by the Public Defender. The work of the Commission was also informed by legislative deliberations during the 2014 Session of the Maryland General Assembly.

On July 1, 2014, the State of Maryland began to implement a Court of Appeals decision that requires state-furnished counsel for indigent defendants at initial appearances before a District Court Commissioner. The Commission studied characteristics of the current pretrial system, including outcomes associated with the provision of counsel at the initial appearance phase.

The Commission met five times and also formed three subcommittees related to *Managing Public Safety through Risk-Based Decision Making*, *Pretrial System Improvement*, and *Individual Rights and Collateral Consequences*. These three subcommittees held five additional meetings.

The Commission ultimately voted to approve the following 14 recommendations:

- **Recommendation One:** Create a uniform pretrial services agency which mandates a process that will ensure continuity and consistency across all 24 jurisdictions. Pretrial services will be responsible for gathering criminal records, administering a statewide risk assessment tool and other relevant information that will be beneficial in determining the initial appearance and to avoid the redundancy of various agencies pulling the same information. Pretrial services will also be responsible for supervision of those released under pretrial supervision and provide referrals for treatment, counseling and other services, particularly for those individuals with limited means, to address the underlying needs that may have caused the criminal behavior.
- **Recommendation Two:** Provide adequate funding and/or personnel to implement a validated risk assessment tool modeled after best practices to pilot in jurisdictions to be utilized by the Court Commissioners after the data has been analyzed.
- **Recommendation Three:** The Judiciary should evaluate the current pretrial system to determine whether it has the capacity to implement best practices in pretrial justice. This evaluation should consider the repurposing of District Court Commissioners from their current duties to conducting risk assessments on defendants and supervising defendants pretrial.
- **Recommendation Four:** The use of secured, financial conditions of pretrial release (cash, property, or surety bond) that require a low-risk defendant to pay some amount of money in order to obtain release, while permitting high-risk defendants with the resources to pay their bonds to leave jail unsupervised, be completely eliminated.
- **Recommendation Five:** Cash bail, and its associated impact, should be monitored by the Maryland Insurance Administration to determine if changes need to be developed and implemented including a comparison between secured and unsecured bond.

¹ Md. Code Regs. 01.01.2014.08 (May 27, 2014).

² *DeWolfe v. Richmond*, 434 Md. 444 (2013).

³ Pilgrim, Shirleen, M., & Rossmark, Claire, E (2013), *Task Force to Study the Laws and Policies Relating to Representation*

- **Recommendation Six:** The Commission recommends that under no circumstances should we institutionalize the Judicial Branch of Government as the line manager of what amounts to the Lawyer-Referral Service Program for Attorneys to represent indigent criminally accused in their First Appearance before a Commissioner. The Office of the Public Defender was created by statute to represent indigent criminally accused. It is an Executive Branch Agency of State Government and should have that responsibility from the initial appearance through appeals.
- **Recommendation Seven:** The Commission recommends earlier and enhanced prosecutorial screening, particularly of citizens' complaints, by way of Maryland rule, prior to the issuance of a summons or warrant, except for domestically related crimes.
- **Recommendation Eight:** Maximize and expand the use of the criminal citation process by law enforcement.
- **Recommendation Nine:** Create a system so that only one entity in the pretrial process has to pull and summarize the arrestee's record, consistent with and in accordance with state and federal law and the independent needs of the system in order to operate efficiently.
- **Recommendation Ten:** Provide state funding to create a shared jail management system, possibly through the Department of Public Safety and Correctional Services' Offender Case Management System (OCMS), to allow for data collection on the pretrial population statewide.
- **Recommendation Eleven:** It is recommended that funding be provided for court and public safety-designated facilities to be outfitted with audio/visual equipment to optimize court hearing efficiencies.
- **Recommendation Twelve:** That whatever pretrial system is contemplated, the critical principle of prompt presentment no later than 24 hours of arrest remain.
- **Recommendation Thirteen:** Data are needed in order to effectively determine impact of process and procedures on various demographics (race, gender, non-English speaking, and indigence defined as eligibility for representation by the Office of the Public Defender or appointed attorney). Additionally, timeliness factors such as rates of waiver to arrests and time between arrest and presentment, by jurisdiction, should be compared and measured.
- **Recommendation Fourteen:** A Commission to Study the Maryland Criminal Justice System shall be created. The purpose of the Commission shall be to improve the effectiveness and efficiency of state and local criminal justice systems by providing a centralized and impartial forum for statewide policy development and planning with a focus on evidence-based decision making. The primary duty of the Commission shall be to develop and maintain a state criminal justice policy and comprehensive, long-range plan for a coordinated and cost-effective state criminal justice system that encompasses public safety, defendant and offender accountability, crime reduction and prevention, and defendant and offender treatment and rehabilitation.

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MESSAGE FROM THE CHAIR

Governor Martin O'Malley tasked this Commission with looking at ways to improve the pretrial justice system in Maryland. In light of the current events in Maryland around pretrial justice, including the recently implemented *DeWolfe v. Richmond* decision, the Commission was presented with many complex issues to consider. In crafting recommendations, the Commission carefully discussed and contemplated suggestions from all Commission members, to ultimately arrive at the final fourteen recommendations. These recommendations serve as an important step forward for pretrial reform in Maryland.

We are grateful to the Governor for creating the Commission and for making a commitment to pretrial justice. It has been an honor to lead this Commission.

Sincerely,

A handwritten signature in black ink, appearing to read 'Richard Karceski', with a long horizontal flourish extending to the right.

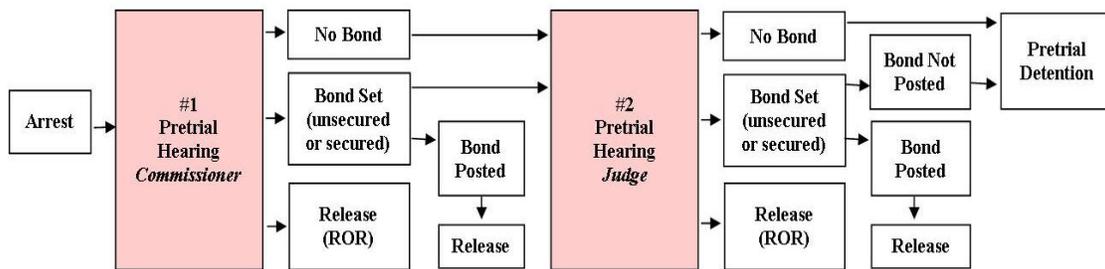
Richard Karceski, Esq.

BACKGROUND

Commission members representing the cross-section of decision makers forming Maryland’s criminal justice system brought a wealth of experience to important conversations about public safety, victims, defendants, and limited resources throughout the system. The Commission listened to presentations from state and national experts and reviewed research on practices that have yielded positive results in other jurisdictions. At the outset, the Commission stated the importance of a pretrial system that optimizes public safety, individual liberty, and cost effectiveness.

DeWolfe v. Richmond

Maryland’s pretrial process is comprised of two main phases. Arrestees first appear before a District Court Commissioner for an initial appearance within 24 hours, and if they are not released, they then appear before a District Court judge for a bail review hearing at the next sitting of the court. Indigent defendants now have a right to state-furnished counsel at both their initial appearance and bail review hearing. However, this was not always the case.



In *DeWolfe v. Richmond (DeWolfe I)*, No. 34 (September Term 2011), the Maryland Court of Appeals held, under the then-effective version of the *Maryland Public Defender Act* (“Public Defender Act”), that no bail determination may be made by a District Court Commissioner concerning an indigent defendant without the presence of counsel, unless representation by counsel is waived. The ruling was based on the *Public Defender Act* and did not address the plaintiff’s federal and state constitutional claims of a right to representation.

In response to the *DeWolfe I* decision, the 2012 General Assembly passed, and the Governor signed into law, Chapters 504 and 505 of 2012, which included a provision that amended the *Public Defender Act* to specify that the Office of the Public Defender is required to provide legal representation to an indigent defendant at a bail hearing before a District Court or Circuit Court judge but is not required to represent an indigent defendant at an initial appearance before a District Court Commissioner. Among other provisions, the Acts also created a Task Force to Study the Laws and Policies Relating to Representation of Indigent Criminal Defendants by the Public Defender (“Task Force”). The Task Force was charged with submitting an interim report by November 1, 2012 and a final report by November 1, 2013.

On September 25, 2013, the Maryland Court of Appeals issued an opinion in the *DeWolfe* case holding that, under the due process clause of Article 24 of the *Maryland Declaration of Rights*, an indigent defendant has a right to state-furnished counsel at an initial appearance before a District Court Commissioner (*DeWolfe II*).²

² *DeWolfe v. Richmond*, 434 Md. 444 (2013).

The Task Force's 2013 final report also included several recommendations related to the potential for reform within Maryland's pretrial system.³

2014 Legislative Session

During the 2014 legislative session, multiple bills were introduced that attempted to further the Task Force recommendations and address the *DeWolfe* decision. Two of these bills, SB 973 and HB 537, proposed a collapsing of the initial appearance and bail review hearing into one hearing before a District Court judge, to uphold defendants' constitutional rights and also gain cost efficiencies, particularly in light of the expenses associated with providing counsel at two hearings shortly after arrest. The proposed legislation was not adopted. On May 28, 2014, the Court of Appeals vacated the stay and injunction that was previously issued in *DeWolfe II* as of 8:00 a.m. on July 1, 2014, thereby initiating implementation of the decision.⁴

In the final hours of the 2014 legislative session, the General Assembly earmarked \$10 million dollars of the Maryland Judiciary's budget to fund appointed attorneys to represent indigent defendants at initial appearances.⁵

DeWolfe v. Richmond Implementation

The Judiciary has provided appointed attorneys in all Maryland counties. In Baltimore City, Prince George's County, and Montgomery County, attorneys are scheduled 24 hours per day and seven days per week. In other counties, appointed attorneys are only available at certain times of the day and work in shifts of four, five, or eight hours.

Court Appointed Attorneys Waived (11/14 - 11/20/14) Compared to Court Appointed Attorney Hours by County					
County	Total Initial Appearances	Attorneys Waived	Waiver Rate	Court Appointed Attorney Hours	Court Appointed Attorney Hours per Day
Allegany	31	27	87.1%	8:00 - 12:00	4
Anne Arundel	241	156	64.7%	8:00 - 8:00	12
Baltimore City	572	231	40.4%	24/7	24
Baltimore County	313	220	70.3%	8:00 - 8:00 or 8:00 am - 12:00 am	12 or 16
Calvert	47	43	91.5%	8:00 - 1:00	5
Caroline	14	13	92.9%	8:00 - 12:00	4
Carroll	41	37	90.2%	9:00 - 1:00	4
Cecil	42	29	69.0%	8:00 - 4:00	8
Charles	75	66	88.0%	8:00 - 8:00	12
Dorchester	22	16	72.7%	9:00 - 1:00	4
Fredenick	61	51	83.6%	8:00 - 4:00	8
Garrett	8	4	50.0%	8:00 - 12:00	4
Harford	56	42	75.0%	9:00 - 2:00	5
Howard	85	75	88.2%	8:00 - 4:00	8
Kent	12	10	83.3%	8:00 - 12:00	4
Montgomery	239	124	51.9%	24/7	24
Prince George's	520	227	43.7%	24/7	24
Queen Anne's	10	8	80.0%	8:00 - 12:00	4
Somerset	9	8	88.9%	9:00 - 1:00	4
St. Mary's	43	36	83.7%	8:00 - 1:00	5
Talbot	15	11	73.3%	8:00 - 12:00	4
Washington	52	45	86.5%	8:00 - 4:00	8
Wicomico	78	70	89.7%	9:00 - 5:00	8
Worcester	38	31	81.6%	9:00 - 1:00	4
Total	2,624	1,580	60.2%		

Source: Maryland Judiciary

³ Pilgrim, Shirleen, M., & Rossmark, Claire, E (2013), *Task Force to Study the Laws and Policies Relating to Representation of Indigent Criminal Defendants by the Office of the Public Defender*. Annapolis, MD, Department of Legislative Services.

⁴ *Clyburn v. Richmond*, Court of Appeals of Maryland, Order No. 105 (September Term, 2013), May 28, 2014.

⁵ Maryland Budget, Senate Bill 170, Chapter 462 (2014), page 3; Maryland Joint Chairmen's Report, Operating Budget (2014), Judiciary Budget Amendment, page 2.

The chart above lists the rates at which defendants waive the right to an appointed attorney since the Richmond decision has been implemented, by jurisdiction, for the week of November 14th through November 20th 2014. An analysis of waiver rates shows that waiver rates are lowest in jurisdictions where appointed attorneys are available at any time of day. At the majority of initial appearances statewide, the defendant waived his or her right to state furnished counsel. The highest rate of waivers occurred in Caroline County, where only one defendant requested an attorney. The lowest waiver rate was in Baltimore City (40.4%).

In addition to the costs of appointed attorneys, other criminal justice agencies have had unanticipated expenditures. Note the following expenditures in the chart below from July 1 through December 1, 2014. The costs below represent the need for local jails and prosecutors to hire more staff and/or pay overtime for staff due to Richmond implementation. In the corrections environment, additional staff is needed to monitor arrestee movement and provide a secure environment for the appointed panel attorneys. For example, in Prince George's County, there have been costs associated with additional correctional officer staffing due to the longer time period between the arrest and the initial appearance. In Prince George's County, the average time an arrestee is waiting for their initial appearance has increased from 4.5 hours to 12 hours.⁶ As a result, the county added a total of three correctional officers on all shifts between its two correctional intake facilities. These additional posts cost approximately \$86,000 per month in overtime, or \$430,000 from July 1 - November 30, 2014. The projected cost to the County will be approximately \$1 million in FY 2015. It is important to note that this chart does not capture any cost-savings associated with the presence of counsel at the initial appearance hearings.

Corrections and State's Attorney's Costs Associated with Richmond (July 1 - November 30, 2014)			
County	Corrections Costs	State's Attorney Costs	Total Costs
Allegany	\$0.00	\$0.00	\$0.00
Anne Arundel	\$58,700.00	\$0.00	\$58,700.00
Baltimore City	\$822,528.00	\$0.00	\$822,528.00
Baltimore County	\$0.00	\$0.00	\$0.00
Calvert	\$0.00	\$1,900.00	\$1,900.00
Caroline	\$6,856.00	\$0.00	\$6,856.00
Carroll	\$4,167.00	\$6,750.00	\$10,917.00
Cecil	\$825.50	\$0.00	\$825.50
Charles	\$0.00	\$0.00	\$0.00
Dorchester	\$324.00	\$0.00	\$324.00
Frederick	\$0.00	\$0.00	\$0.00
Garrett	\$0.00	\$0.00	\$0.00
Harford	\$0.00	\$0.00	\$0.00
Howard	\$33,333.00	\$7,900.00	\$41,233.00
Kent	\$0.00	\$0.00	\$0.00
Montgomery	\$358,800.00	\$77,674.00	\$436,474.00
Prince George's	\$430,000.00	\$383,300.00	\$813,300.00
Queen Anne's	\$0.00	\$0.00	\$0.00
Somerset	\$0.00	\$0.00	\$0.00
St. Mary's	\$0.00	\$0.00	\$0.00
Talbot	\$5,639.20	\$0.00	\$5,639.20
Washington	\$5,691.00	\$0.00	\$5,691.00
Wicomico	\$1,000.00	\$37,137.00	\$38,137.00
Worcester	\$1,929.56	\$0.00	\$1,929.56
Total	\$1,729,793.26	\$514,661.00	\$2,244,454.26

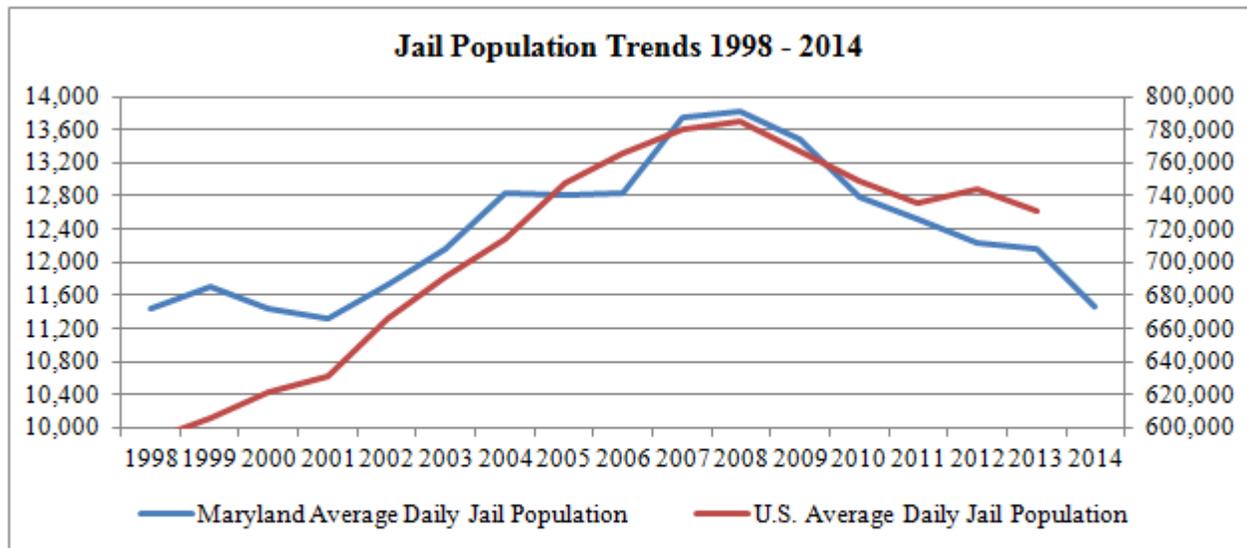
Source: Maryland Judiciary

⁶ Prince George's County Department of Corrections.

Jail Populations

According to the National Crime Victimization Survey and FBI Uniform Crime Reports, national crime rates, including violent crime, have reached the lowest levels ever recorded. However, despite the low crime rates, national jail populations have only begun to decline in the past five years.⁷ This same trend holds true in Maryland.

Between 1998 and 2014, Maryland had a 32.5% reduction in total crime (a reduction of 89,155 crimes) and 32.0% reduction in violent crime (13,061 fewer crimes).⁸ Although the state's jail population has been on the decline since 2009, the state's average daily jail population in 2014 (11,456) was still slightly higher than the average daily jail population in 1998 (11,433).⁹

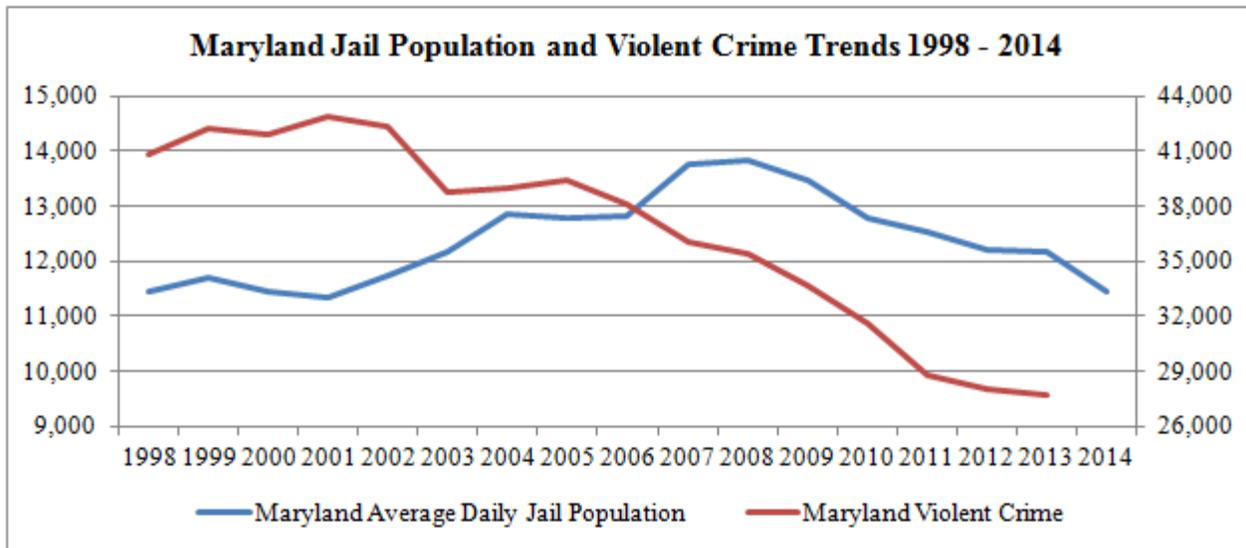


Sources: Bureau of Justice Statistics
Department of Public Safety & Correctional Services
Maryland Correctional Administrators Association

⁷ Minton, Todd, D., & Golinelli, Daniela (1998 – 2013), *Jail Inmates at Midyear*. Washington, DC, Bureau of Justice Statistics.

⁸ Maryland State Police, *Uniform Crime Reports*.

⁹ Maryland Correctional Administrators Association.



Sources: Bureau of Justice Statistics
 Governor's Office of Crime Control & Prevention
 Maryland Correctional Administrators' Association

Jails around the country, including jails in Maryland, primarily house defendants who are awaiting trial and who are presumed innocent. Roughly 60% of jail inmates nationwide are pretrial and have not yet been convicted of a crime.¹⁰ In Maryland, over the past ten years, the state's pretrial jail population has ranged from 60-65.8%. Maryland's FY 2014 pretrial jail population of 65.8% is the highest recorded in the state since the county jails began collecting this data in 1998.¹¹ At any given time in Maryland, there are roughly 7,000 – 7,500 defendants detained in jail awaiting trial with an average length of stay of 39 days.¹² This costs the state approximately \$22.65 - \$44.75 million each year (\$83-\$153 a day in jail) in detention costs.¹³ For comparative purposes, Kentucky, a state that has been operating a statewide pretrial service agency since the 1970's, and has been using validated risk assessment for decades, has a pretrial jail population of 43%.¹⁴

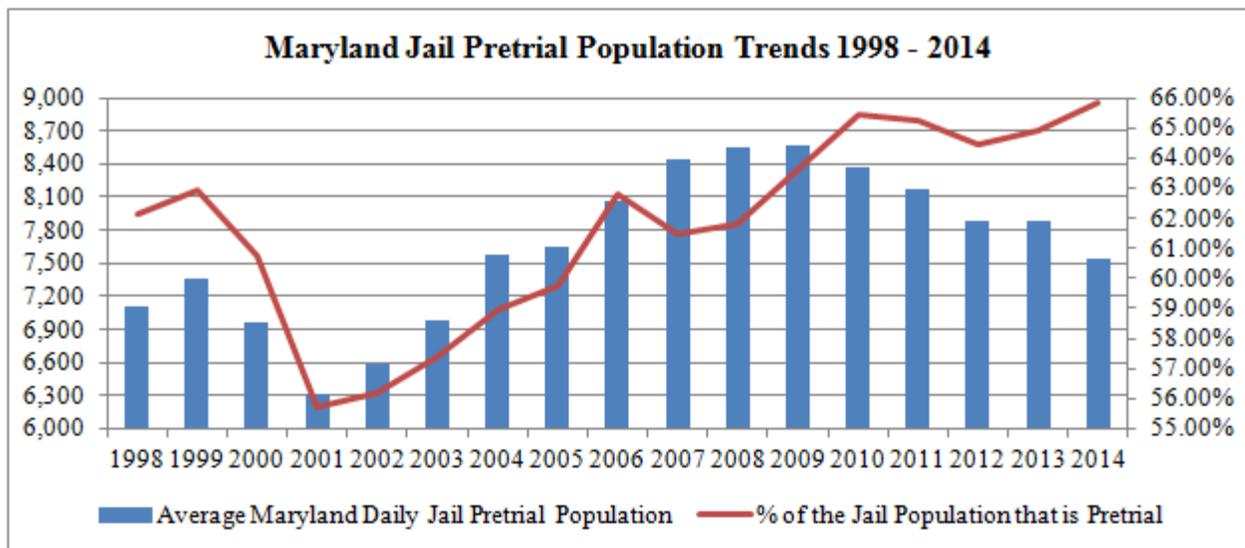
¹⁰ See footnote 7.

¹¹ Department of Public Safety & Correctional Services, Maryland Correctional Administrators Association.

¹² Austin, James F. (2014), *Maryland Pretrial Risk Assessment Data Collection Study*, Washington DC, JFA Institute.

¹³ Governor's Office of Crime Control & Prevention. The daily cost range was provided by MCAA and DPSCS.

¹⁴ Kentucky Pretrial Services Agency.



Sources: Department of Public Safety & Correctional Services
Maryland Correctional Administrators Association

Improving Maryland Pretrial Services

Maryland Pretrial Programs

- There are pretrial services agencies within 11 of Maryland’s 24 jurisdictions (Anne Arundel, Baltimore City, Baltimore County, Calvert, Carroll, Dorchester, Frederick, Harford, Montgomery, Prince George’s, and Wicomico).
- The 11 agencies range from 2- 91 total employees.
- Each pretrial services program only assesses those defendants who are not released by District Court Commissioners. Roughly 50% of the defendants that have an initial appearance before a Court Commissioner are released and therefore never assessed by a pretrial services agency.
- Five of the 11 pretrial service agencies use a risk assessment of some kind.
- Only two pretrial services agencies use a risk assessment tool that was validated on the local population, while one other agency uses a tool that was validated in another state.
- Only about half of the pretrial agencies make release recommendations to the judge before a bail review hearing.
- All of the pretrial agencies provide supervision, but the supervision types are not consistent across the state.
- There is little consistency and information sharing on the pretrial process and outcome data that is collected.

Sources: Pretrial Justice Institute
Governor’s Office of Crime Control & Prevention

As described in the text box above, 11 of 24 Maryland jurisdictions have pretrial programs. Of those 11, only five use risk assessment instruments to assess the risk of pretrial defendants. Pretrial risk is defined

as the likelihood of committing another crime or failing to appear in court.¹⁵ While each of these agencies is successful in the work that they do, they are not fully in compliance with national standards and evidence-based practices. The National Association of Pretrial Service Agencies (NAPSA) has developed standards on key elements of an effective and efficient pretrial services program. These standards are outlined below.

Universal Screening: Effective pretrial programs screen all defendants eligible for release by state statute or local court order that appear for a pretrial hearing before a judicial officer.

Validated Risk and Needs Assessment: Effective pretrial programs use validated risk criteria and assessments to gauge a defendant's suitability for release pending trial. The assessment should be empirically validated using local data to ensure that its factors are proven to be the most predictive of future court appearance and re-arrest pending trial. An effective pretrial program should make recommendations to the court based on the findings of this risk assessment. These recommendations should be the least restrictive to reasonably ensure court appearance and community safety.

Sequential Review of Release/Diversion Eligibility: Effective pretrial programs provide screening, assessment, and recommendations at multiple decision points following a pretrial hearing for those defendants who are eligible for release but are detained. Subsequent screening, assessment, and recommendations during the detention period should focus on new or updated information about the defendant and recommendations should be appropriate to the defendant's newly assessed risk level.

Supervision to Match Risk: Pretrial supervision levels tied to assessed risk of pretrial misconduct – reoffending or failing to appear – greatly improve pretrial outcomes. Conversely, over-supervision of low risk defendants produces poorer outcomes and wastes resources. Some examples of effective pretrial supervision strategies for low risk defendants include court notifications through telephone calls, emails, or text messages, early and meaningful response to defendant misconduct, regular reporting, drug testing, GPS electronic monitoring, and treatment referrals.¹⁶

Data Collection and Performance Measurement: Highly functioning pretrial services agencies collect key data and are able to report progress related to agency objectives. For example, Kentucky's statewide Pretrial Services Agency designed a computerized, case information management system and partnered with the National Institute of Corrections to define outcome measures, performance measures, and mission-critical data. All pretrial officers statewide use an electronic application to collect, assess, and monitor defendant information, including a record of every interaction between a pretrial officer and a defendant. Transitioning from a paper-based system to the computerized case management system created new possibilities for Kentucky Pretrial Services to collect, organize, analyze and interpret data. Pretrial staff receive training, and pretrial supervisors are required to calculate each local program's performance and outcome data and submit a report detailing the analysis.

The collection and retrieval of key data increases a jurisdiction's ability to measure outcomes. For example, the Kentucky Pretrial Services Agency is able to report on appearance rate, safety rate, success rate, and pretrial detainee length of stay. Monitoring the pretrial system performance is essential to

¹⁵ Pretrial Justice Institute (2013), *Report to the Pretrial Release Subcommittee of the Task Force to Study the Laws and Policies Relating to Representation of Indigent Criminal Defendants by the Office of the Public Defender*, Pretrial Justice Institute.

¹⁶ Kennedy, Spurgeon. (August 2014). *Elements of an Effective Pretrial Services Program*. Presentation to the National Institute of Corrections Orientation for New Pretrial Executives, Denver, CO.

reducing pretrial misconduct and improving public safety.¹⁷

The Commission identified the following gaps in available data about Maryland’s pretrial population. Future work to improve pretrial justice in Maryland should incorporate strategies to collect the following information:

Unanswered Questions in Maryland

- What is the risk level of Maryland’s pretrial population?
- How many defendants post bond?
- How many defendants are released on pretrial supervision?
- How many defendants released pretrial are arrested prior to trial?
- Of those defendants on pretrial supervision, how many fail to appear for court or get arrested prior to trial?
- What is the risk level of each defendant detained pretrial in jail?
- How many pretrial defendants are detained in jail who could not post bond? What was the bond amount?
- What is the average length of stay of pretrial defendants detained in jail?
- How many defendants are released after paying bond?

THE COMMISSION

The Commission was tasked with the following objectives:

1. Conduct a comprehensive examination of ideas that the State of Maryland could implement to ensure that Maryland operates an equitable and efficient statewide pretrial program;
2. Review approaches of other states and municipalities that use validated risk assessment tools;
3. Recommend how an objective validated risk assessment tool could be used in the State of Maryland;
4. Consider other methods to reduce the amount of time that low-risk arrestees are detained and other methods of pretrial diversion;
5. Develop and issue recommendations, including recommendations for legislation, that the State of Maryland should undertake to achieve these goals;
6. Assist and advise the State on issues arising from the ongoing implementation on a pilot basis of a risk assessment tool in one or more counties; and
7. Consider other related matters as the Commission deems necessary.

Commission Meetings and Activities

¹⁷ Pretrial Services (January 2013). *Pretrial Reform in Kentucky*. Frankfort, KY, Administrative Office of the Courts, Kentucky Court of Justice.

The Commission met six times between June and December of 2014. The Commission also formed three subcommittees:

Managing Public Safety through Risk-Based Decision Making Subcommittee

The purpose of this subcommittee was to consider the feasibility and challenges of implementing an evidence- and risk-based pretrial system. The subcommittee reviewed and analyzed available risk assessment tools, pretrial supervision models, and other best practices towards implementing a risk-based pretrial system that protects public safety and ensures optimal individual outcomes.

Pretrial System Improvement Subcommittee

The purpose of this subcommittee was to evaluate the current pretrial process in Maryland, including Richmond compliance and the right to counsel, and propose solutions that will optimize the efficiency of the pretrial system and help manage available resources. This subcommittee looked at both time-saving and cost-saving solutions, as well as information sharing throughout the system.

Individual Rights and Collateral Consequences Subcommittee

The purpose of this subcommittee was to ensure that all individuals in Maryland who come into contact with the criminal justice system receive fair and equitable treatment throughout the pretrial process. This subcommittee identified disparities within the pretrial system and proposed potential solutions.

The Pretrial Commission completed the following activities:

- Provided an overview of the Maryland District Court Commissioner system;
- Presented the characteristics of an ideal pretrial system;
- Reviewed potential changes to Maryland’s pretrial system that would generate the most benefit to the criminal justice system;
- Created a matrix of pretrial data requests to be completed by various criminal justice agencies;
- Hosted a panel discussion with pretrial justice system representatives from the District of Columbia;
- Presented findings from site visits to Kentucky and Colorado pretrial services agencies;
- Reviewed validated risk assessment tools from multiple jurisdictions as well as the methodology for completing a pretrial risk assessment tool validation study;
- Made recommendations intended to improve the efficiency of the pretrial system in Maryland, ensure fair and equal justice throughout, and incorporate evidence-based practices into pretrial system reform; and
- Approved the Maryland Pretrial Risk Assessment Data Collection Study to collect data on a cohort of defendants over a two-week period, using a validated risk assessment tool from another jurisdiction (see Appendix A for the results).

Maryland Pretrial Risk Assessment Data Collection Study Overview

On September 22, 2014, the Commission voted to support a Pretrial Risk Assessment Data Collection Study. The study was also recommended by the National Institute of Corrections.

The purpose of this study was to gather data on a cohort of Maryland defendants over a two-week period, using a validated risk assessment tool from the state of Kentucky. Such a study will help policy-makers understand the risk level (failing to appear for court or being re-arrested prior to trial) of the Maryland pretrial population. The analysis also evaluated pretrial release decisions relative to the presumed risk levels of Maryland defendants. Six Maryland counties agreed to participate in the data collection effort: Baltimore City, Harford County, Montgomery County, Prince George's County, St. Mary's County, and Washington County. In each jurisdiction, intake officers compared the factors in the Kentucky Pretrial Risk Assessment (KPRIA) to each defendant's criminal history. All defendants who were booked between *Wednesday October 15th at 12:00 a.m. and Tuesday October 29th at 11:59 p.m.* were included. In addition, intake officers recorded the pretrial release decision made by the Court Commissioner during the initial appearance, as well as the release decision made by the judge during the bail review hearing for each defendant.

The KPRIA was validated by the Vera Institute of Justice in 2013, based on a population data set of over 88,000 cases. A list of the factors, weightings, and recommendations of the KPRIA tool are shown in the chart below:

Factor	Weight
1. Pending cases (none, violation, misdemeanor, felony)	None=0 Yes=7
2. Active FTA or prior FTA on felony/misdemeanor charge	No=0 Yes=2
3. Prior FTA on violation or traffic charge	No=0 Yes=1
4. Prior misdemeanor convictions	No=0 Yes=2
5. Prior felony convictions	No=0 Yes=1
6. Prior violent crime convictions	No=0 Yes=1
7. Currently on felony probation/parole	No=0 Yes=1

Scores/Levels/Recommendation Procedures

0-2 = Low Risk = Release ROR/USB per statute

3-9 = Moderate Risk = Release ROR/USB per statute with pretrial supervision

10-15 = High Risk = Judicial Discretion

The KPRIA factors reflect many of the factors included in other risk assessment instruments that have been validated using large data sets. This study was not meant to endorse this particular risk assessment

tool or replace a validation study. Its sole purpose was to gather data on the risk levels of the Maryland pretrial population.

Dr. James Austin from the JFA Institute analyzed the data collected during the study period. The JFA Institute is a non-profit organization whose staff has over 30 years of experience in the evaluation of criminal justice practices and design of research-based policy solutions.

Major Findings

1. Over a two-week period a total of 3,244 defendants were arrested and booked into six local jail systems for a variety of crimes.
2. The vast majority (78%) of these defendants were able to secure release within a few days with 70% securing release at the initial appearance.
3. The most frequent offenses for these defendants were FTA (21%), 2nd degree assault (15%), and drug possession (11%).
4. There was considerable variance in the overall release rates of defendants by the primary crime for which they were charged. Overall, release rates were lowest for defendants charged with the most violent crimes (murder, rape and robbery).
5. In terms of risk assessment, 33% of the sample were scored under the Kentucky risk assessment instrument as low risk, 45% were moderate risk, and 33% were higher risk.
6. The arrestee’s average risk score did not vary significantly by jurisdiction despite significant differences in the crime, arrest and jail incarceration rates of each jurisdiction.

Risk Level	Baltimore City	Harford	Montgomery	Prince George’s	St. Mary’s	Washington	Total
Lowest	29%	36%	44%	35%	30%	29%	33%
Moderate	49%	37%	38%	41%	50%	42%	45%
Higher	22%	27%	19%	24%	21%	29%	22%

7. There was a strong relationship between scored risk level and overall release rates with 90% of low risk defendants released compared to 76% for moderate risk, and 65% of the higher risk defendants.
8. While there was a correlation between risk levels and overall release decisions, there was no such relationship between risk and the bond amount that was set by the court.
9. At the bail review hearing, a number of defendants who were given No Bond at the initial appearance were subsequently released on ROR and Bond or Unsecured Bond.¹⁸
10. Overall, the bail review hearing seems to favor defendants, with many of them having the bail amounts set at the initial appearance being lowered or securing pretrial release.

¹⁸ Court Commissioners are restricted from releasing defendants charged with certain crimes that meet certain criteria as required by statute.

11. Overall, the severity of the crime and the scored risk level were both associated with initial appearance and bail review decisions.

Initial Appearance Outcome	Lowest	Moderate	Higher	Total
Unsecured	5%	4%	3%	4%
ROR	61%	48%	37%	49%
Bond	30%	38%	46%	37%
No Bond	4%	10%	14%	9%
Overall Release Rate	90%	76%	65%	78%

12. At both the initial appearance and bail review hearings, there was an inverse relationship between bail amounts and risk levels. Low risk defendants had higher bail amounts than moderate and higher risk defendants.

13. Of those defendants who were unable to secure release by the end of the study, 16% were low risk, 49% were moderate risk, and 36% were high risk. Regardless of risk level, about 2/3rds of the unreleased group were not able to post a bond amount by the end of the study.

Recommendations

Dr. Austin recommends that Maryland should develop its own risk assessment instrument that has been tested and validated on Maryland’s own defendant population. Adoption of a standardized risk assessment system could help further improve the existing risk-based decisions being made at the initial and bail review hearings. Implementation of a statewide, validated risk assessment system would also help identify suitable candidates for release who are now unable to secure release, which in turn would have a positive impact on the local pretrial population.

Next Steps

This study produced valuable findings on pretrial risk data that had never before been produced in Maryland. However, there are still some unanswered questions to be addressed.

1. Failures to Appear (FTAs)

Over this two week study, the most common offense for which defendants were arrested was failure to appear (21% of the sample). Furthermore, 86% of these defendants were able to secure release by the end of the study period. FTAs are costly to law enforcement, jails, and the courts and decrease the efficiency of the criminal justice system.

The data on FTAs in Maryland should be further examined. The Maryland Judiciary provided data on FTA rates by county for FY 2013 (Appendix G), but the Commission did not have time to discuss these figures in depth. To date there has been no independent examination of this data. Overall, Maryland had an FTA rate of 11.7% in FY 2013. As a next step to the Maryland Risk Assessment Data Collection Study Maryland should revisit the cases in the study to see how many defendants appeared in court. This follow-up research should also examine those 21% of defendants that were initially arrested for a FTA

to see how many of them subsequently failed to appear for court.

Research shows that court notification programs significantly reduce a defendant's likelihood of failing to appear for court.¹⁹ There should be further examination of Maryland's current court notification process. GOCCP has also discussed the possibility of establishing pilot programs in Maryland to test the concept of voice, text, or email notifications to remind defendants of upcoming trial dates.

2. Public Safety

While the Maryland Risk Assessment Data Collection Study showed that low risk defendants were more likely to be released than moderate or high risk defendants, the study also showed that 65% of high risk defendants were released. Once the cases in the study have been disposed, the State should further examine the 2,533 defendants who were released to determine how many of those defendants were re-arrested prior to trial, particularly for a violent offense. This data will also be useful when conducting a pretrial risk assessment validation study in Maryland, and will help identify defendants who pose a high risk of failing to appear or a threat to public safety who should be preventatively detained in jail and not allowed to secure pretrial release.

3. Pretrial Detention

Further analysis should be conducted to determine if the highest risk defendants are being detained. Of the 711 defendants detained in jail during the JFA Institute study, 36% were high risk, 49% were moderate risk, and 16% were low risk. Across all risk levels, 68% of defendants were detained because he/she could not post a bond amount set by a judicial officer. Were these defendants detained because they were a public safety risk or because they did not have the financial means to be released? There are more efficient and cost-effective pretrial practices than pretrial detention, such as pretrial supervision. The United States Courts determined that it is roughly 10 times cheaper to put a defendant on pretrial supervision than to detain them in jail.²⁰

Further analysis should be completed on those defendants detained during this study, including a demographic analysis (race, gender, and age), to determine whether there is a disproportionate impact on people of color or people of a certain age or gender. The implementation of a validated pretrial risk assessment statewide could help identify defendants who are suitable for release. This would have a positive impact on the local pretrial population as well as public safety as a whole.

RECOMMENDATIONS

The Commission voted to approve 14 recommendations as described below.

Recommendation One: *Create a uniform pretrial services agency which mandates a process that will ensure continuity and consistency across all 24 jurisdictions. Pretrial services will be responsible for*

¹⁹ Bornstein, Brian, H., Tomkins, Alan, J., & Neeley, Elizabeth, M. (May 2011). *Reducing Courts' Failure to Appear Rate: A procedural Justice Approach.*, Lincoln, NE. University of Nebraska Public Policy Center.

²⁰ United States Courts (July 2013). *Supervision Costs Significantly Less than Incarceration in Federal System.* Washington, DC. Retrieved from <http://news.uscourts.gov/supervision-costs-significantly-less-incarceration-federal-system>

gathering criminal records, administering a statewide risk assessment tool and other relevant information that will be beneficial in determining the initial appearance and to avoid the redundancy of various agencies pulling the same information. Pretrial services will also be responsible for supervision of those released under pretrial supervision and provide referrals for treatment, counseling and other services, particularly for those individuals with limited means, to address the underlying needs that may have caused the criminal behavior.

Pretrial release and detention policies and decisions have very important implications for public safety as well as society's capacity to achieve the ideal of equal justice under the law. By providing judicial officers with essential information for decision making and by helping to supervise released defendants, pretrial services programs help courts to increase public safety and reduce discrimination based on wealth and other factors not related to risk of flight or danger to the community. Fair and effective pretrial release policies are an essential component of public safety and equal justice.

The three main goals of any pretrial services agency are to:

- 1.) Maximize public safety;
- 2.) Maximize release; and
- 3.) Maximize court appearance.

Pretrial services programs perform two critical functions: gather and present information about defendants to judicial officers to be used in making decisions about a defendant's pretrial custody or release status, and to supervise defendants who are released from custody during the pretrial period by monitoring their compliance with release conditions and by helping to ensure they appear for scheduled court appearances.

The decision to release or detain someone pretrial has significant consequences for the community. This decision not only affects public safety, but also has implications for the size of jail populations and the costs associated with the pretrial detention of defendants. This decision point also has important consequences for defendants. According to the National Institute of Justice, "the decision to release or hold a defendant pretrial directly affects their ability to assert their innocence, negotiate a disposition, and mitigate the severity of a sentence."²¹ Furthermore, pretrial detention disrupts a defendant's employment, family life, and other ties to the community.²²

In Maryland, a statewide pretrial services program will help ensure uniformity and consistency in the application of best practices in pretrial, without necessarily restructuring the fundamentals of our pretrial justice system. A statewide pretrial services program will also allow Maryland to maximize resources and efficiencies while maintaining public safety in the state. Kentucky's budget to operate its statewide pretrial services program is \$12.75 million for FY 2015.²³ The following national organizations have produced express policy statements generally supporting the use of evidence-based and best pretrial practices, which include risk assessment and fair and transparent preventive detention, at the front end of the criminal justice system:

²¹ Mahoney, Barry., Beaudin, Bruce, D., Carver III, John, A., Ryan, Daniel, B., & Hoffman, Richard B., (March 2001). *Pretrial Services Programs: Responsibilities and Potential*. Washington DC. National Institute of Justice.

²² See footnote 21.

²³ Kentucky Pretrial Services Agency

- The Conference of Chief Justices
- The Conference of State Court Administrators
- The National Association of Counties
- The International Association of Chiefs of Police
- The Association of Prosecuting Attorneys
- The American Council of Chief Defenders
- The National Association of Criminal Defense Lawyers
- The American Jail Association
- The American Bar Association
- The National Judicial College
- The National Sheriff's Association
- The American Probation and Parole Association
- The National Association of Pretrial Services Agencies²⁴

Recommendation Two: *Provide adequate funding and/or personnel to implement a validated risk assessment tool modeled after best practices to pilot in jurisdictions to be utilized by the Court Commissioners after the data has been analyzed.*

Pretrial risk assessment tools are used to inform judicial decision makers about a defendant's likelihood of failing to appear for court or of being re-arrested prior to trial. These tools help courts to maximize public safety by making evidence-based release decisions. Risk assessment tools use defendant characteristics and a defendant's prior criminal history to determine his/her risk of pretrial failure, which is typically sorted into the categories of low risk, moderate risk, or high risk. There are over 330 counties around the country that use pretrial risk assessments. The assessments generally consist of 7-10 questions such as the defendant's criminal and FTA history, the number of pending charges, the nature of the current offense, drug abuse history, residential stability, and employment history. Pretrial risk assessment instruments are highly effective in their ability to predict rates of success while on pretrial release. Using a pretrial risk assessment gives the judicial officer important, objective information before making a discretionary release decision and assigning appropriate supervision conditions to match the level of risk.²⁵ Any pretrial risk assessment instrument should be locally validated; meaning that local data needs to be gathered to determine which factors are predictive of a defendant's likelihood of failing to appear for court or being re-arrested prior to trial.²⁶

Although pretrial risk assessment instruments provide an objective, standard way of assessing the likelihood of pretrial failure, they should not be used to replace judicial discretion. The assessment tool should serve as a guide/resource for a judicial officer to consider when making a pretrial release decision. Any pretrial risk assessment instrument must be consistently validated to ensure its predictive validity. As a result, jurisdictions must continuously collect and analyze defendant data, such as release, supervision conditions, pretrial success, and final adjudication of the case.²⁷

²⁴ Fundamentals of Bail, National Institute of Corrections (2014).

²⁵ Pretrial Justice Institute (2012), *Pretrial Risk Assessment 101; Science Provides Guidance on Managing Defendants*, Washington, DC. Pretrial Justice Institute.

Mamalian, Cynthia A. (2011). *State of the Science of Pretrial Risk Assessment*. Washington, DC. Pretrial Justice Institute.

²⁶ Same as footnote 25.

²⁷ Same as footnote 25.

Recommendation Three: *The Judiciary should evaluate the current pretrial system to determine whether it has the capacity to implement best practices in pretrial justice. This evaluation should consider the repurposing of District Court Commissioners from their current duties to conducting risk assessments on defendants and supervising defendants pretrial.*

Implementation of the Commission’s first recommendation – to establish a uniform pretrial services agency – will require additional staff and resources. The Maryland Judiciary currently employs District Court Commissioners who are selected and trained to perform many essential functions, including initial appearances. The Commission urges the Judiciary to identify opportunities for efficiencies during the initial appearance and bail review hearing phases, and to implement evidence-based practices that serve to maximize public safety and court appearance rates across Maryland. Solutions may require research, funding, training, technology, legislation, and the review of existing Maryland Rules. Specifically, the Commission recommends building upon current release guidelines by developing and implementing a locally validated risk assessment instrument. Under Maryland Rule 4-216, Commissioners may consider the following factors in determining release:

- Nature and circumstances of the offense charged;
- Nature of the evidence against the defendant;
- Potential sentence upon conviction;
- Defendant’s prior record of appearance at court, including flight and FTAs;
- Defendant’s family ties, employment status, history and financial resources;
- Defendant’s reputation and character, including mental condition;
- Defendant’s length of time of residence in the community and the state’s recommendations from pretrial services, State’s Attorneys and defendant’s counsel;
- Danger of the defendant to the victim, another person or community;
- Danger of the defendant to himself or herself;
- Any other factors bearing on willful failure to appear and safety of the victim, another person or community; and
- Prior convictions and/or prior adjudications of delinquency that occurred within three years of the date the defendant is charged as an adult.

Additionally, the Commission suggests increasing court capacity for pretrial risk mitigation, including monitoring and supervision. A full list of Court Commissioner activities can be found in Appendix C.

Recommendation Four: *The use of secured, financial conditions of pretrial release (cash, property, or surety bond) that require a low-risk defendant to pay some amount of money in order to obtain release, while permitting high-risk defendants with the resources to pay their bonds to leave jail unsupervised, be completely eliminated.*

The use of secured financial conditions of pretrial release, bail or bond, a common practice for over a century across the United States, is based on the premise that requiring defendants to post a financial bond prior to release increases public safety and court appearance. However, researchers have noted that

this approach results in defendants who are unable to pay the bond and must remain in jail pending trial, regardless of whether they present a risk, while those who are able to pay the bond are released.

For the past 20 years, the District of Columbia has used a pretrial system that rarely employs financial conditions of release. Judges in D.C. make “hold or release” decisions, in every case, without bond. These decisions are guided by a comprehensive preventive detention statute that reflects the community’s policy priorities. In addition, decisions are informed by the results of an empirically derived pretrial risk assessment tool which assesses the defendant’s likelihood to appear at the trial and the defendant’s likelihood to commit another crime while released.

In D.C. approximately 85% of pretrial defendants are released with conditions that correlate to risk level. About 90% of the released defendants appear in court as required and remain crime-free during the pretrial period. Only 1% of releases are charged with violent offenses while on pretrial release. These public safety and appearance rates meet or surpass outcomes from many other jurisdictions that rely on secured bail. In D.C., the 15% of defendants who remain in jail pending trial according to the preventive detention statute have no opportunity to purchase their way out. These results, consistent over a 20-year period and coming from a jurisdiction that experiences significant crime levels, demonstrate that the use of financial conditions at the bail decision is obsolete, and even dangerous, because financial conditions are not based on risk.²⁸

Additionally, research from Dr. James Austin’s study (see Appendix A) on a sample of over 3,200 Maryland defendants shows that the bond amounts set by judicial officers were not associated with risk. The median bail amounts set by the Court Commissioners for low risk defendants was equivalent to the bond amounts set for moderate and high risk defendants (\$5,000). At the bail review hearing, the median bond amount for low risk defendants (\$10,000) was higher than moderate (\$9,250), and higher risk (\$5,000) defendants. Also, data from this study showed that nearly 70% of defendants, regardless of risk, who were detained in jail pretrial could not post their bond amount. Only 30% were denied bond. Furthermore, 16% of the detained pretrial population in this study was low risk and 49% were moderate risk.

Recommendation Five: *Cash bail, and its associated impact, should be monitored by the Maryland Insurance Administration to determine if changes need to be developed and implemented including a comparison between secured and unsecured bond.*

Pending the elimination of secured bond in Maryland (see Recommendation Four), the state should closely monitor its impact. Recent research conducted by the Laura and John Arnold Foundation demonstrates the impact of short-term pretrial detention on a defendant’s continuing criminal activity, including re-arrests on new charges for offenses allegedly occurring while the defendant was on pretrial release. The study found that low risk defendants who spent just two to three days in jail after arrest, often the time needed to post a monetary bond, were 39% more likely to be rearrested while their cases were pending than low risk defendants who were released within one day of arrest. Low risk defendants who spent four to seven days in jail were rearrested at a rate that was 50% higher than for low risk defendants who were released within a day. The same pattern holds for medium risk defendants.

The study also looked at the likelihood of recidivism with 12 months and within 24 months of the adjudication of the case, by risk level, for those who were released during the pretrial period compared

²⁸ Pretrial Justice Institute.

to those who were detained until disposition on bonds that they could not post. Low risk defendants who were detained pretrial recidivated at a rate that was 27% higher within 12 months, and 28% higher within 24 months, than low risk defendants who were released during the pretrial period. The same pattern holds for those who had been scored as medium risk.²⁹

Other recent research from Colorado compared the public safety and court appearance rates for defendants who were required to post a secured bond and for those who were required to post an unsecured bond. Unlike other studies that have made similar comparisons, this study controlled for the defendants' risk levels, as identified through the use of the empirically derived Colorado Pretrial Risk Assessment Tool. The study found that, across all risk levels, there were no statistically significant differences in public safety and court appearance rates for those released on secured versus unsecured bonds. The study did find, however, that those released on secured bonds used substantially more jail bed space than those released on unsecured bond, given the longer time it takes for those with secured bonds to make the financial arrangements for release. Thus, the study found that while nothing was gained in terms of better public safety and court appearance outcomes by requiring defendants to post a secured bond, doing so came with the cost of unnecessarily consuming jail bed days.³⁰ These two studies, taken together, illustrate that any jurisdiction that relies on secured bonds should regularly assess the effects of that approach on public safety and on system costs.

Recommendation Six: *The Commission recommends that under no circumstances should we institutionalize the Judicial Branch of Government as the line manager of what amounts to the Lawyer-Referral Service Program for Attorneys to represent indigent criminally accused in their First Appearance before a Commissioner. The Office of the Public Defender was created by statute to represent indigent criminally accused. It is an Executive Branch Agency of State Government and should have that responsibility from the initial appearance through appeals.*

The Commission has concerns about the current system in which the Judiciary oversees appointed attorneys to represent defendants during their initial appearances before a District Court Commissioner. The Judicial Branch is constitutionally required to be the neutral arbiter between prosecution and defense in our adversarial system of justice. Therefore, the hiring, training, supervising and paying of defense attorneys may raise ethical and constitutional issues.

The Office of the Public Defender was created by statute to represent indigent criminally accused and performs this function at the bail review stage. It is an Executive Branch Agency of State Government with legal and managerial expertise in criminal defense matters and should have that responsibility from the initial appearance through appeals. Defendants also stand to benefit from the continuity of counsel. Furthermore, there is efficiency in having one entity cover the defense of criminal cases from start to finish. Examples of such advantages are the unified management and supervision of personnel and the gathering and coordination of all case-related information into confidential case files and electronic data.

Recommendation Seven: *The Commission recommends earlier and enhanced prosecutorial screening, particularly of citizens' complaints, by way of Maryland rule, prior to the issuance of a summons or warrant, except for domestically related crimes.*

²⁹ Lowenkamp, Christopher, T., VanNostrand, and Holsinger, Alexander (2013), *The Hidden Costs of Pretrial Detention*, Laura and John Arnold Foundation.

³⁰ Jones, Michael R. (2013) *Unsecured Bonds: The As Effective and Most Efficient Pretrial Release Option*, Washington, DC: Pretrial Justice Institute.

Part IV of the National District Attorneys Association’s (NDAA) National Prosecution Standards, Third Edition, sets out standards for Pretrial Considerations. Standard 4-1.1 states that, “the decision to initiate a criminal prosecution should be made by the prosecutor’s office. Where state law allows criminal charges to be initiated by law enforcement or by other persons or means, prosecutors should, at the earliest practical time, decide whether the charges should be pursued.”³¹ In the commentary on the pretrial section, the NDAA Standards state, “[i]t could be argued that screening decisions are the most important made by prosecutors in the exercise of their discretion in the search for justice. The screening decision determines whether or not a matter will be absorbed into the criminal justice system. While the decision may be very easy at times, at others it will require an examination of the prosecutor’s beliefs regarding the criminal justice system, the goals of prosecution, and a broad assortment of other factors.”³²

In Maryland, all State’s Attorney’s Offices screen felony cases, but only four jurisdictions screen misdemeanor cases. In the District of Columbia, all local charges are screened by the United States Attorney’s Office. As a result, only 40-50% of cases go to court.³³ In 2012 in Maryland, citizen complaints comprised 42.8% of the total charging documents issued by District Court Commissioners. In Prince George’s County, 60% of the charging documents issued were originated by citizen complaints. In Maryland, 96.7% of the complaints filed with a District Court Commissioner result in the issuance of a charging document; only 3.3% are denied.³⁴ Earlier and enhanced prosecutorial screening of citizen complaints may help reduce the number of cases that advance through the criminal justice system. More information is needed to fully evaluate how many citizen complaints are ultimately dismissed after significant resources are expended.

³¹ National District Attorneys Association, *National Prosecution Standards, Third Edition (updated 2009)*, retrieved at <http://www.ndaa.org/pdf/NDAA%20NPS%203rd%20Ed.%20w%20Revised%20Commentary.pdf>

³² See footnote 31.

³³ Rubenstein, David (September 2014). Presentation at the Commission to Reform Maryland’s Pretrial System.

³⁴ Maryland Judiciary, 2012 District Court Commissioner Activities.

Charging Documents Issued by District Court Commissioners (2012)					
Jurisdictions	Police Originated Complaint	Citizen Originated Complaint	Total Charging Documents Issued	Police %	Citizen %
Baltimore City	6,824	6,495	13,319	51.2%	48.8%
Dorchester, Wicomico, Somerset, Worcester	2,847	1,255	4,102	69.4%	30.6%
Cecil, Kent, Queen Anne's, Caroline, Talbot	2,395	2,112	4,507	53.1%	46.9%
Calvert, Charles, St. Mary's	4,588	911	5,499	83.4%	16.6%
Prince George's	3,507	5,271	8,778	40.0%	60.0%
Montgomery	3,382	1,808	5,190	65.2%	34.8%
Anne Arundel	3,408	2,286	5,694	59.9%	40.1%
Baltimore County	5,339	3,794	9,133	58.5%	41.5%
Harford	1,531	1,429	2,960	51.7%	48.3%
Carroll, Howard	2,133	1,516	3,649	58.5%	41.5%
Frederick, Washington	2,493	2,053	4,546	54.8%	45.2%
Allegany, Garrett	1,582	1,031	2,613	60.5%	39.5%
Total	40,029	29,961	69,990	57.2%	42.8%
Source: Maryland Judiciary					

The Commission recommends appropriate funding for State's Attorney's Offices to implement early screening programs, which can create cost efficiencies throughout the system and prevent the incarceration of arrestees in cases that prosecutors will decline to pursue. Additionally, prosecutorial screening can also provide the opportunity to divert defendants from traditional criminal justice system processing into alternative programs and services that address criminogenic needs. Diverting defendants prior to an initial appearance provides cost-savings to the system.

Nothing in this recommendation shall interfere with the service of charges on defendants. Furthermore, the Commission recommends against mandatory early prosecutorial screening of domestic violence cases. The safety of abuse victims is paramount. These cases should proceed as quickly as possible to avoid any risk of serious harm to the alleged victim.

Recommendation Eight: Maximize and expand the use of the criminal citation process by law enforcement.

In 2012, the Maryland General Assembly passed legislation (Senate Bill 422/Chapter 504 of 2012) mandating the issuance of a criminal citation for certain offenses. The law allows an officer who has grounds to make a warrantless arrest to (1) issue a citation in lieu of making an arrest ("cite and release"), or (2) to make the arrest, process (i.e. fingerprint and photograph the defendant), and subsequently issue a citation in lieu of continued custody and appearance before a Court Commissioner ("book, cite and release"). The following offenses are qualifying offenses for charge by citation:

- Any misdemeanor or local ordinance violation that does not carry a penalty of imprisonment;
- Any misdemeanor or local ordinance violation for which the maximum penalty of imprisonment is 90 days or less; and
- Possession of marijuana under § 5-601 of the Criminal Law Article.

Section 4-101(c)(1)(i)(2) of the Criminal Procedure Article outlines the exceptions to the above offenses. Additionally, although the law mandates the issuance of a citation for qualifying offenses, a defendant must meet certain criteria to be released without appearing before a District Court Commissioner. If a defendant cannot meet the criteria specified by statute, the officer must file a statement of charges and ensure the defendant's appearance before a Court Commissioner.

The statute also mandates the Maryland Statistical Analysis Center (MSAC) located at GOCCP to compile an annual report on all criminal citations issued by law enforcement. MSAC concluded that there were over 27,000 criminal citations issued by law enforcement in 2013. This represents an 80% increase in the number of criminal citations issued annually. (On average, 15,000 criminal citations were issued between 2007 and 2012).³⁵ According to data from the Maryland Judiciary, there were nearly 20,000 fewer initial appearances in 2013 than in 2012 (153,305 compared to 172,895 in 2012).³⁶ Based on the criminal citation legislation passed in 2012, it is predicted that this drop in initial appearances is related to the increased use of criminal citations. From a cost perspective, the further expansion of criminal citations has the potential to save money by reducing arrest and booking costs.

Recommendation Nine: *Create a system so that only one entity in the pretrial process has to pull and summarize the arrestee's record, consistent with and in accordance with state and federal law and the independent needs of the system in order to operate efficiently.*

In some Maryland jurisdictions, the criminal background of an arrestee is searched by several entities prior to the initial appearance. The admitting officer, the pretrial investigator, the prosecutor, and the Commissioner all search the same multiple databases, which is time consuming. By creating a system where one entity compiles standard criminal history information and shares the data with other parties in the system, valuable time and resources could be saved.

Recommendation Ten: *Provide state funding to create a shared jail management system, possibly through the Department of Public Safety and Correctional Services' Offender Case Management System (OCMS), to allow for data collection on the pretrial population statewide.*

In Maryland, there are 23 local jails and detention centers and one detention center operated by the Department of Public Safety and Correctional Services (DPSCS). Each facility utilizes its own jail information management system. These local information systems do not interface with each other or with the DPSCS's Offender Case Management System (OCMS), thereby creating a critical barrier to the seamless and timely flow of information. With nearly 250,000 arrests in Maryland each year, many defendants have been placed in multiple jails and state prisons. Unfortunately, these independent jail systems make it virtually impossible for a comprehensive set of information to follow a defendant as he or she moves in and out of local facilities and state prisons. In addition, documented gang affiliations and institutional security infractions from one local jail may be unknown if a defendant enters another local jail or state prison facility.

In 2014, GOCCP was awarded a grant to interface local jail systems with the State's OCMS. The grant allows Maryland to connect and integrate state prison and local jail systems, as well as share correctional information across jurisdictional boundaries. To implement this project, GOCCP will work

³⁵ Maryland Statistical Analysis Center (2014). *First Report to the State of Maryland Under SB 422: 2013 Criminal Citations Data Analysis*. Towson, MD. Governor's Office of Crime Control & Prevention.

³⁶ Maryland Judiciary.

with DPSCS and the Maryland Correctional Administrators Association (MCAA) to achieve greater integration among institutional data systems to more effectively track and monitor both defendants and offenders. Because MCAA is an organization of local jails and detention centers in Maryland, its objective is consistent with that of DPSCS; to coordinate the collection, sharing, and analysis of relevant defendant and offender information to improve institutional security, enhance public safety, and facilitate inmate reentry efforts. MCAA's President has committed to partner with DPSCS and GOCCP to accomplish the following goals: (1) leverage existing resources to facilitate new and improved information sharing among the corrections community; (2) create a central repository or access point where law enforcement can access information on inmates who are, or have been, in state prisons and local jails; (3) improve prison and jail security; (4) ensure critical information is analyzed and disseminated to appropriate individuals for prompt action; and (5) develop a national model for corrections-based information sharing. Despite the progress that Maryland has made in the implementation of OCMS, there are still cost limitations to expanding the program statewide.

Recommendation Eleven: *It is recommended that funding be provided for court and public safety-designated facilities to be outfitted with audio/visual equipment to optimize court hearing efficiencies.*

Maryland Rule 4-231 allows for the use of video conferencing during an initial appearance or a bail review hearing. Currently, there are 27 court locations in Maryland that utilize this option.

Videoconferencing has several benefits, including allowing the court to process criminal cases more efficiently and effectively. According to a survey conducted by the National Center for State Courts in 2010, participants cited time, staff, and fuel savings as videoconferencing benefits. According to the study, jurisdictions reported the following savings: \$31 million since inception (PA); 30% of travel expenses (UT); \$600,000 per year; \$50,000 per year; and \$500 per hearing were noted by different courts.³⁷ Maryland should explore the expanded use of videoconferencing to further the efficiencies of the criminal justice system, while ensuring that this program serves to uphold individual constitutional rights and the interests of crime victims. The following chart shows where videoconferencing is currently being used in Maryland for initial appearances and bail review hearings.

³⁷ National Center for State Courts, *Video Conferencing Survey (2010)*, Retrieved at <http://www.ncsc.org/services-and-experts/areas-of-expertise/technology/ncsc-video-conferencing-survey.aspx>.

Video Bail Connections				
County	Site	# of Video Bail Rooms	Video Bail/Initial Appearance	Network
Allegany	Cumberland	2	video bail	County Network
Anne Arundel	Annapolis	2	video bail	Judiciary
Anne Arundel	Glen Burnie	1	video bail	Judiciary
Baltimore City	Wabash	4	video bail	Judiciary
Baltimore City	Hargrove	5	video bail	Judiciary
Baltimore County	Towson	1	video bail	County Network
Baltimore County	Essex	1	video bail	County Network
Baltimore County	Catonsville	1	video bail	County Network
Calvert	Prince Frederick	Commissioner	initial appearance	County Network
Carroll	Westminster	2	video bail	County Network
Cecil	Elkton	2	video bail	Judiciary
Charles	La Plata	Commissioner	initial appearance	County Network
Dorchester	Cambridge	1	video bail	County Network
Frederick	Frederick	2	video bail	County Network
Garrett	Oakland	1	video bail	Judiciary
Harford	Bel Air	1	video bail	County Network
Howard	Ellicott City	5	video bail	County Network
Kent	Chestertown	1	video bail	Judiciary
Montgomery	Rockville	1	video bail	County Network
Montgomery	Silver Spring	1	video bail	County Network
Prince George's	Upper Marlboro	1	video bail	County Network
Queen Anne's	Centerville	1	video bail	Judiciary
Talbot	Easton	1	video bail	Judiciary
Washington	Hagerstown	2	video bail	County Network
Wicomico	Salisbury	1	video bail	County Network
Worcester	Snow Hill	1	video bail	Judiciary
Worcester	Ocean City	1	video bail	Judiciary

Source: Maryland Judiciary

Recommendation Twelve: *That whatever pretrial system is contemplated, the critical principle of prompt presentment no later than 24 hours of arrest remain.*

The Commission recommends the preservation of the principle of prompt presentment to safeguard the rights of the defendant. Under Maryland Rule 4-212, a “defendant shall be taken before a judicial officer of the District Court without unnecessary delay and in no event later than 24 hours after arrest or, if the warrant so specifies, before a judicial officer of the circuit court without unnecessary delay and in no event later than the next session of court after the date of arrest.”

Recommendation Thirteen: *Data are needed in order to effectively determine impact of process and procedures on various demographics (race, gender, non-English speaking, and indigence defined as eligibility for representation by the Office of the Public Defender or appointed attorney). Additionally, timeliness factors such as rates of waiver to arrests and time between arrest and presentment, by jurisdiction, should be compared and measured.*

Currently, the State of Maryland does not track the effects of pretrial procedures on the most vulnerable segments of our population. Although GOCCP plans to analyze the pretrial jail populations of eight counties in order to measure length of stay by demographic factors including race, gender, and age, as a

state, Maryland is still missing critical information to effectively study our current pretrial system. At every stage in the U.S. criminal justice system, people of color fare worse than their white counterparts and the pretrial stage is no exception. The bail system in America is unfair to defendants, victims, the general public, and particularly people of color.³⁸ Black defendants are more likely to be detained than are white defendants, and Latinos are the most likely to be detained.³⁹ Nationally, Black men are given bonds 35% higher than White men while Latino men are given bonds 19% higher than White men.⁴⁰ Furthermore, people of color are more likely to be living in poverty and are therefore disadvantaged by a monetary bail system.⁴¹

Recommendation Fourteen: *A Commission to Study the Maryland Criminal Justice System shall be created. The purpose of the Commission shall be to improve the effectiveness and efficiency of state and local criminal justice systems by providing a centralized and impartial forum for statewide policy development and planning with a focus on evidence-based decision making. The primary duty of the Commission shall be to develop and maintain a state criminal justice policy and comprehensive, long-range plan for a coordinated and cost-effective state criminal justice system that encompasses public safety, defendant and offender accountability, crime reduction and prevention, and defendant and offender treatment and rehabilitation.*

In Maryland, although there have been prior commissions to look at the structure and functions of the judicial branch and the future of the civil justice system, none of these prior commissions have directly addressed the operation of the criminal justice system as a whole. More importantly, none examined the institutions of the executive and judicial branches of government to determine if they were effectively checking and balancing each other and thereby producing a fair, impartial and efficient criminal justice system.

The Pretrial Commission notes that Oregon and Wisconsin have highly functioning state-level Criminal Justice Commissions. Oregon's Criminal Justice Commission is charged with developing a long-range state public safety plan which includes making recommendations on the capacity and use of state prisons and local jails, implementation of community corrections programs, and methods to reduce future criminal conduct.⁴² The Wisconsin Criminal Justice Study Commission was formed in 2005 by the U.W. Law School, Marquette Law School, the State Bar of Wisconsin, and the Wisconsin Department of Justice. The Commission's purpose is to study issues affecting the accuracy of the criminal justice system in order to ensure that the system convicts the guilty, and only the guilty. Its membership includes judges, prosecutors, police officers, defense attorneys, victims' advocates, academics, and community leaders from outside the justice system.⁴³

The pretrial justice system cannot be analyzed in isolation from other stages of the criminal justice process. The pretrial phase has measurable effects on other decision points. Therefore, the Commission

³⁸ Pretrial Justice Institute (2014). *Race & Bail in America*. Pretrial Justice Institute. Retrieved from <http://www.pretrial.org/the-problem/race-bail/>.

³⁹ See footnote 38.

⁴⁰ Becki Ney, Center for Effective Public Policy, *Implementing Pretrial Reform in Maryland Presentation* (December 8, 2014).

⁴¹ See footnote 40.

⁴² Criminal Justice Commission, *About Us*. Oregon Criminal Justice Commission. Retrieved from http://www.oregon.gov/CJC/Pages/contact_us.aspx.

⁴³ State Bar of Wisconsin (May, 2007), More About the Wisconsin Criminal Justice Study Commission. *Wisconsin Lawyer*, 80(5).

recommends that a standing group of criminal justice stakeholders be established to come together regularly to discuss and coordinate the criminal justice issues of the state and to consider the implementation of evidence-based practices throughout all stages of the criminal justice system. This recommendation is not meant to impede the ongoing efforts to improve pretrial justice in Maryland, but rather to acknowledge the critical impact of pretrial decisions on later decision points in the criminal justice system.

**STATEMENT OF SENATOR CHRISTOPHER B. SHANK
AND SCOTT SHELLENBERGER, STATE'S ATTORNEY**

We the undersigned commend the work of the commission and strongly support the majority of the recommendations that will improve Maryland's Pretrial System.

However, we would respectfully dissent from recommendation number four. The use of secured financial bond whether in the form of cash, property or surety bond serves an important function in Maryland's Criminal Justice System. When family members, loved ones or friends have put financial resources toward effecting a defendant's release pretrial, it is an incentive for the defendant to appear in court. With financial resources on the line many defendants will not fail to appear for fear of a financial loss. The defendant's personal investment in the current system of pretrial release has a useful place within the pretrial system.

We strongly support the recommendation that the Maryland Insurance Commissioner review and report where there are cases of abuse. In addition, the data the Commission has reviewed indicate that certain high risk individuals are being released by making bail, further supporting the notion that more risk assessment and supervision are called for. We believe, similar to the state of Colorado, that a vital and effective system of pre-trial risk assessment and supervision can co-exist and support the current system of utilizing bail. Our District Court Commissioners and Judges should have the discretion to utilize both based on objective factors of risk and protecting public safety.

Christopher B. Shank

Maryland State Senate

Scott D. Shellenberger

State's Attorney for

Baltimore County

DISSENT OF BRIAN J. FRANK

The Report and Recommendations of The Governor's Commission to Reform Maryland's Pretrial System (the "Commission") are a non-solution to a non-problem. Accordingly, I issue this dissent.

Although the Executive Order establishing the Commission called for an examination of the entire pretrial system, the central problem confronting the Maryland criminal justice system -- and the real impetus for the creation of the Commission -- was the *Richmond v. DeWolfe* case ("DeWolfe"), and the havoc occasioned by the implementation of that ruling. Regrettably, in its Report, the Commission barely touches upon the systemic problems associated with the DeWolfe ruling.

In regards to the Commission's recommendations for an overhaul of Maryland's pretrial system, imposed time limitations for a comprehensive dissent to the Report do not allow for a full discussion of the Commission's glaring failure to consider the most relevant data (most particularly the failure to appear data provided by the District Court of Maryland), its neglect in terms of establishing benchmarks for desired outcomes and its lack of critical analysis of the programs run in other jurisdictions. Perhaps, most importantly, the Commission chose not to undertake a financial cost analysis of its sought after "Pretrial Utopia," something that was self-evident from the presentation and discussion of the District of Columbia's pretrial release system and its exorbitant budget.

Suffice it to say, the Commission ignored the most relevant data and consciously determined not to look at costs because many of its members were predisposed to the outcomes set forth in the Report.

Respectfully submitted,

Brian J. Frank

APPENDIX A – MARYLAND PRETRIAL RISK ASSESSMENT DATA COLLECTION STUDY

Acknowledgements

The Commission would like to thank the Wardens and correctional intake officers and pretrial staff from Baltimore City, Harford County, Montgomery County, Prince George’s County, St. Mary’s County, and Washington County for agreeing to participate and produce data for the Maryland Pretrial Risk Assessment Data Collection Study. Your efforts have produced valuable findings on the risk population of Maryland defendants which have never before been collected. This data will be valuable in the State’s efforts towards pretrial system reform.

Maryland Pretrial Risk Assessment Data Collection Study

Prepared by

James Austin, Ph.D.
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Introduction

The Governor's Office of Crime Control & Prevention (GOCCP) partnered with the Department of Public Safety & Correctional Services (DPSCS) and several local jail administrators, to begin examining the risk levels of pretrial defendants in Maryland and how the courts are making pretrial release decisions based on risk.

The purpose of this study was to gather data on a cohort of Maryland defendants over a two-week period, using a validated risk assessment tool from the state of Kentucky. Such a study would help policy-makers understand the level of risk of failing to appear (FTA) or being re-arrested while under pretrial status. The analysis also evaluated how pretrial release decisions are being made by judicial officers relative to the presumed risk levels of Maryland defendants.

The Kentucky Pretrial Risk Assessment (KPRA) instrument was chosen based on the recommendations of national pretrial experts, including the National Institute of Corrections.

The KPRA is one of eight known multi-jurisdictional risk instruments that have been deployed in Colorado, Connecticut, Florida, Kentucky, Ohio, Maine, Virginia and the federal court system. These risk assessments use a variation of similar factors which have consistently been shown to be predictors of FTAs or pretrial re-arrests. The Kentucky Pretrial Services Agency (KPSA) has used the KPRA instrument from 2006 – 2013, which was initially validated by the JFA Institute in 2010 and then revalidated by the Vera Institute of Justice in 2013. These validation studies have served to slightly modified and refined the original versions of the KPRA.

The KPRA is particularly useful for this exercise because it was implemented uniformly across the state of Kentucky in both rural and urban settings. Another benefit of the KPRA is that it does not require an interview with the defendant which allowed for data to be collected on defendants in a much timelier manner using existing databases.

JFA Institute was selected by GOCCP to conduct the analysis of 3,244 cases that were submitted for analysis by the following six jurisdictions that agreed to participate in the data collection study:

1. Baltimore City
2. Harford County
3. Montgomery County
4. Prince George's County
5. St. Mary's County
6. Washington County.

JFA Institute's task was to conduct independent statistical analysis of the 3,244 records that were submitted by the six counties data that applied the KPRA to each defendant.

Initial Appearance and Bail Review Hearing

In Maryland defendants will appear before a Commissioner within a short period of time to make what is referred to as an initial appearance. At that hearing, bail is set and decisions are made on whether to release the defendant or release the defendant based on one's own recognizance

(ROR).

There are some offenses that by statute cannot result in a release by the Court Commissioner. These crimes are listed in the Maryland District Court Quick Reference Guide located at the end of this report. Factors that the Commissioners consider when making release determinations are also included. Also, there is no formal requirement that the bond set by the Commissioner be based on risk.

If the defendant is not released at the initial appearance, a subsequent Bail Hearing by a Judge is held. The defendant's record is reviewed once again, which can result in a change in the bail amount and a decision to release or detain. Judges are not constrained by the list of crimes for which Commissioners are not allowed to make release decisions at this review.

Research Design

As suggested above, the KPRA has evolved over time. In particular the number of scoring factors has been reduced to eliminate redundancies and improve the amount of effort to complete a risk assessment. The most recent version is referred to as the pre-screener instrument that can be applied without the benefit of an interview. The number of scoring items is limited to seven and includes the most common pretrial risk factors found in any validated tool such as current offense, criminal history, prior FTAs, pending cases, current probation, and parole statuses. The factors, weighting of the tool, and release recommendations are shown in Table 1.

The three risk levels require some explanation. The numerous studies of pretrial release have all shown that defendants released have relatively high (85-90%) success rates. Part of the reason for these high rates is the amount of time available to fail.

**Table 1. Kentucky Pretrial Pre-Screener Risk Assessment Instrument
Scoring Factors and Risk Scale**

Scoring Factor	Weight
1. Pending cases (none, violation, misdemeanor, felony)	None=0 Yes=7
2. Active FTA or prior FTA on felony/misdemeanor charge	No=0 Yes=2
3. Prior FTA on violation or traffic charge	No=0 Yes=1
4. Prior misdemeanor convictions	No=0 Yes=2
5. Prior felony convictions	No=0 Yes=1
6. Number of prior violent crime convictions	No=0 Yes=1
7. Currently on felony probation/parole	No=0 Yes=1
<p>Scores/Levels/Release Recommendation Procedures</p> <p>Low Risk = 0-2 pts. = Presumed Release ROR/USB per statute</p> <p>Moderate Risk = 3-9 pts. = Release ROR/USB per statute with pretrial supervision</p> <p>High Risk = 10-15 pts. = Judicial Discretion – supervision required</p>	

Most felony cases are disposed of within 3-6 months. Therefore, the amount of time to fail pretrial, which is defined as failing to appear or being re-arrested is much less than in traditional recidivism studies where people are tracked for three years and have re-arrest rates in the 50-65% range.

Moreover, the fact that a person has been charged with one or more felonies and is facing possible jail or state imprisonment if convicted tends to put most people on their best behavior. Any indications of failing to appear for a court hearing or being re-arrested for a new crime may certainly lessen the chance for a lenient sentence.

Table 2 shows the most recent research provided by the Kentucky Pretrial Services Agency (KPSA) when using the KPRA tool. As suggested earlier, most of the screened defendants were assessed in the “Moderate” (41%) and “Low” (42%) risk categories. Only 17% were assessed at the “High” risk group. There is a steady progressive trend in the FTA and re-arrest rates by the three risk levels. However, please note that even within the “High” risk group the success rates exceed 80%. Because these “High” risk defendants in Kentucky have low failure rates we have been relabeled the risk level as “higher” to more accurately reflect their actual risk level.

Finally, it’s noteworthy that in Kentucky, the release rates are also highly associated with the risk level which shows the courts are taking risk into consideration in making a release decision.

**Table 2. Recent Results of KPRA Pretrial Screenings
June 2011- June 2012**

Risk Levels	%	Non FTA Rates	Non Re-Arrest	Release Rates
Low	42%	93%	94%	85%
Moderate	41%	87%	87%	68%
High	17%	81%	80%	54%

Source: KPSA

Sampling Procedures

Maryland Correctional Intake Officers from the six jurisdictions used various databases to apply the KPRA instrument on all defendants arrested between October 15th and October 29th. This process produced a total sample of 3,244 defendants. Only those defendants that went before a District Court Commissioner at an initial appearance were scored by the KPRA and the risk level was recorded by the intake officer.

For each defendant, Intake Officers also recorded the pretrial release decision made by the Court Commissioner at the initial appearance as well as the decision made by the judge during a bail review hearing, if there was one. At the conclusion of the two-week period, all data elements were provided to the JFA Institute. This file was then formatted for statistical analysis.

Table 3 provides background information on the six jurisdictions on a number of key demographic and criminal justice attributes. In general, the six selected jurisdictions provide a diverse and representative picture of places where people are arrested and detained on criminal charges.

Baltimore City stands out by its size and higher rates of reported crime (total and violent), arrests, jail bookings, and jail incarceration rate. In contrast, Montgomery County has very low crime, arrest, and jail incarceration rates. The other counties tend to have rates that fall somewhere between Baltimore City and Montgomery County. When using the number of total arrests as a measure of incarceration rates as opposed to the jurisdiction's population, the differences among the jurisdictions decline.

Table 3 also provides estimated measures of the total average lengths of stay (LOS) in custody for all bookings based on the jail population and estimated bookings for the entire year. The average total LOS ranges from a high of 58 days in Baltimore City and a low of 23 days in Harford County. Any systemic change in pretrial release practices would have an important impact on the estimated LOS and the jail populations, which have large proportions of pretrial detainees.

The majority of the 3,244 cases sampled were from Baltimore City (1,520 or 47% of the total sample). The smaller jurisdictions generated sufficient numbers so that comparisons by jurisdiction can be done. In total, the sample reflected about 5% of the total bookings per year.

Table 3. Key Attributes of the Six Data Collection Study Jurisdictions

Attribute	Baltimore City	Harford County	Mont.	Prince George's	St. Mary's	Washington	Total State
Population	622,671	250,244	1,016,455	888,070	110,294	149,938	5,928,814
Crime Rate per 100,000	6,422	1,888	1,775	3,723	2,488	2,329	3,131
Violent Rate per 100,000	1,406	265	174	506	220	259	468
Adult Arrests	51,582	8,662	18,638	25,904	4,763	6,705	245,505
Arrest rate per 100,000	8,284	3,461	1,834	2,917	4,318	4,472	4,141
Jail Population	3,368	412	752	1,059	241	298	11,358
% Pretrial	87%	37%	30%	93%	44%	74%	65%
September Bookings	1,761	545	621	1,047	158	196	8,804
Annualized	21,132	6,540	7,452	12,564	1,896	2,352	105,648
Estimated Total LOS	58	23	37	31	46	46	39
Jail Rate per 100,000 Pop	541	165	74	119	219	199	192
Jail Rate per 100 Arrests	7	5	4	4	5	4	5
Total Sample	1,520	105	460	914	95	150	NA
% of Sample	47%	3%	14%	28%	3%	5%	NA
% of Total Bookings	7%	2%	6%	7%	5%	6%	NA

Relative to pretrial release instruments and agencies, both Montgomery County and Baltimore City have well-established pretrial agencies which use pretrial risk instruments that have been validated on their defendant populations. Montgomery County screens all defendants before they go before a bail review hearing while Baltimore City only screens those defendants referred to them by the judge. Harford County uses a pretrial instrument that is used by Virginia but it has not yet been validated on the County's defendant population. St. Mary's, Washington and Prince George's do not use risk instruments.

Limitations of the Study

Before proceeding to the results of the study, it is important to note that there are a number of limitations that impact the analyses that can be completed at this time.

First, there was insufficient time to conduct a follow-up study to determine if each defendant showed up for court or was re-arrested. Due to the fact that we do not have a measure of FTA or pre-trial re-arrest, we were unable to determine the actual level of risk associated with each defendant who was released.

Also, the release dates were collected as of November 1, 2014. It is likely that additional

defendants have been released after that date that we would have been able to classify were we able to obtain that information.

Lastly, the offense codes that were provided by each jurisdiction were not specific enough to identify crimes for which the setting of a bond or granting of a release is not permitted by statute. Consequently, we were unable to identify those cases for which the setting of a “No Bond” was not at the discretion of the Commissioner at initial appearance

Analysis of the Data

The next section of the report provides a number of tables that describe in detail the attributes of the sample and the results of applying the KPRA instrument to the selected defendant sample.

Defendant Charges

In terms of the primary charge that the defendant was arrested and booked for, there were both similarities and differences among the six pilot sites. For all sites, the vast majority of offenses were non-violent property, drug or court ordered violations. Second Degree Assault was the most frequent offense among violent crimes for all sites (Table 4).

Overall, the most frequent charge in this sample was defendants charged with a Failure to Appear for some offense (21%).¹ For non-violent offenses there was considerable variation among the sites. Baltimore City reported higher numbers of drug possession and drug sale cases, while St. Mary’s had the highest proportion of DUI arrests. Three jurisdictions reported a high proportion of cases booked for a Failure to Appear warrant that may be associated with lesser crimes that triggered the arrest and subsequent warrant check. A significant number of offenses were a variety of traffic violations, with the most frequent being operating a vehicle without a license and driving with a suspended license.

Bail Amounts at Initial Appearance

Two bail amounts were recorded by each county. The first amount reflects the bail set at the initial appearance by the Commissioners. The second amount is the amount set at the bail review hearing. In Table 5, the average and median bail amounts that were set at the initial appearance are shown for each jurisdiction. The median statistic helps to diminish the effect of a few cases with very high bond amounts. Defendants that were released on their own recognizance (ROR) or had no bond set are not included in the analysis. For Harford, St. Mary’s and Washington counties the number of defendants available for analysis was too small for a meaningful comparative analysis. However, among the three larger jurisdictions, there was a distinct difference between Baltimore City and Montgomery and Prince George’s—Baltimore City had significantly higher bond amounts (both average and median). This difference persisted by the three major crime categories as well.

Risk Levels

Tables 6-8 show how each sampled case scored under the KPRA. Table 6 shows the percent of cases that received points for each of the seven scoring items. In this table, the percentages reflect those receiving a positive score for the scoring item. For example, 33% of the entire

¹ Failure to appear warrants may be associated with less serious crimes that resulted in a judge issuing a bench warrant.

sample had other pending charges at the time of the arrest, and 47% had a prior or active FTA warrant.

While there was some variation among the six sites, there was a common trend where large percentages of the sample had other pending charges, prior FTAs (criminal or traffic), prior misdemeanors and prior felony convictions. On the other hand, there was also a sub-group that has no prior history. Small percentages had a prior conviction for a violent crime and/or were on state probation or parole supervision.

Table 7 shows the total KPRA risk score for each jurisdiction. The cut-off for the risk levels are highlighted in red. As expected, there was a core group of low risk defendants receiving either none or 1-2 points based on the scoring items described above. These were persons with no other pending charge and very limited if any prior criminal records. Similarly, there was a small but visible group with a considerable prior record and most likely other pending charges who were scoring 10 points or higher.

The majority of defendants were in the middle with an overall average point score of 5.4 points. The average risk score did not vary significantly by jurisdiction despite the earlier noted differences in the crime, arrest and incarceration rates.

The similarities in the risk levels across the sites are illustrated in Table 8. For the entire sample, most defendants were scored as either low (33%) or moderate (45%) with 22% assessed as higher risk. Using the same instrument in Kentucky, their risk levels consisted of 42% low risk, 41% moderate risk, and 17% higher risk.

There were some differences with Montgomery County having the highest proportion of low risk (44%) and Washington County having the highest proportion of highest risk (29%). One is cautioned not to make too much out of these county by county differences based on the size of the samples and the extent of the differences.

Table 4. Primary Charge at Booking

Primary Offense	Baltimore City	Harford	Mont.	Prince George's	St. Mary's	Wash.	Total
Total Cases	1,520	105	460	914	95	150	3,244
Violent	25%	28%	20%	25%	21%	29%	24%
1 st Degree Assault	2%	3%	3%	3%	2%	4%	2%
2 nd Degree Assault	14%	19%	13%	15%	14%	19%	15%
Child Abuse	1%	1%	0%	0%	2%	0%	0%
Murder	1%	1%	0%	0%	0%	1%	1%
Rape	0%	0%	0%	0%	0%	1%	0%
Robbery	4%	2%	2%	3%	2%	1%	3%
Other Violent	0%	1%	0%	0%	1%	1%	0%
Weapons	3%	2%	1%	3%	0%	3%	3%
Other Sex Crimes	3%	1%	2%	3%	2%	3%	3%
Non-Violent	57%	42%	47%	36%	72%	35%	48%
Burglary	5%	11%	4%	2%	4%	11%	4%
Disorder Cond/Public Drunk	5%	4%	8%	5%	5%	5%	6%
Drug Possession	17%	7%	7%	5%	5%	2%	11%
Drug Sale	8%	1%	4%	5%	0%	1%	6%
DUI	1%	2%	1%	1%	17%	0%	2%
Other Non-Violent	2%	3%	2%	2%	3%	4%	2%
Other Traffic Violations	8%	3%	9%	5%	13%	3%	7%
Resist Arrest	1%	2%	1%	1%	2%	1%	1%
Theft/Fraud	10%	11%	12%	9%	22%	8%	10%
Trespass	0%	0%	0%	0%	0%	0%	0%
Court Related	15%	30%	31%	37%	5%	33%	25%
FTA	14%	27%	27%	31%	0%	28%	21%
Violation of Court Order	1%	3%	4%	6%	5%	5%	3%

Table 5. Bail Amounts Set at the Initial Appearance

County	Baltimore	Harford	Mont.	Prince George's	St. Mary's	Wash.	Total
Total	455	56	252	329	16	62	1,151
Avg Bond	\$29,561	\$16,392	\$15,310	\$16,323	\$25,031	\$30,073	\$21,037
Median Bond	\$7,500	\$7,500	\$3,000	\$5,000	\$5,000	\$7,500	\$5,000
Violent Crimes							
Avg Bond	\$57,788	\$57,083	\$15,310	\$25,665	\$37,000	\$43,926	\$38,698
Median Bond	\$25,000	\$37,500	\$5,000	\$7,500	\$10,000	\$7,500	\$10,000
Non-Violent Crimes							
Avg Bond	\$13,505	\$3,000	\$8,685	\$8,189	\$7,083	\$26,800	\$11,307
Median Bond	\$5,000	\$7,500	\$3,250	\$3,500	\$3,500	\$15,000	\$5,000
Court Related							
Avg Bond	\$17,147	\$4,591	\$3,463	\$4,991	NA	\$7,974	\$8,636
Median Bond	\$4,250	\$3,000	\$2,500	\$2,600	NA	\$3,000	\$3,000

Table 6. Percentage of Defendants Receiving Points by KPRA Scoring Factor by Jurisdiction

Scoring Items	Baltimore City	Harford	Mont.	Prince George's	St. Mary's	Wash.	Total
Total Cases	1,520	105	460	914	95	150	3,244
1. Other Pending Criminal Cases?	31%	36%	31%	37%	35%	34%	33%
2. Active/Prior FTA Criminal?	51%	34%	48%	40%	51%	53%	47%
3. Active/Prior FTA Traffic?	27%	36%	30%	41%	37%	29%	32%
4. Prior Misd Convictions?	68%	67%	47%	59%	68%	74%	63%
5. Prior Felony Convictions?	45%	26%	19%	27%	17%	39%	34%
6. Prior Violent Convictions?	17%	8%	14%	10%	7%	17%	14%
7. Current Probation/Parole?	10%	20%	6%	8%	7%	19%	9%

Table 7. Total KPRA Total Risk Points by Jurisdiction

	Baltimore City	Harford	Mont.	Prince George's	St. Mary's	Wash.	Total
Total Cases	1,520	105	460	914	95	150	3,244
Points							
0	15%	20%	21%	17%	20%	15%	16%
1	4%	7%	8%	7%	1%	1%	5%
2	10%	10%	15%	11%	6%	13%	11%
3	7%	9%	5%	8%	6%	6%	7%
4	13%	7%	11%	8%	13%	11%	11%
5	11%	6%	7%	7%	15%	11%	9%
6	8%	6%	2%	4%	2%	6%	6%
7	5%	2%	6%	6%	4%	6%	5%
8	2%	2%	2%	3%	2%	1%	2%
9	5%	7%	5%	6%	10%	2%	5%
10	3%	3%	4%	6%	3%	3%	4%
11	6%	9%	4%	5%	3%	6%	5%
12	6%	8%	6%	7%	12%	7%	6%
13	5%	6%	4%	3%	1%	7%	4%
14	2%	2%	1%	2%	2%	3%	2%
15	1%	0%	0%	1%	0%	1%	1%
Average Risk Points	5.5	5.5	4.7	5.4	5.5	5.9	5.4

Table 8. KPRA Scored Risk Level by Jurisdiction

	Baltimore City	Harford	Mont.	Prince George's	St. Mary's	Wash.	Total
Total Cases	1,520	105	460	914	95	150	3,244
% of Total	47%	3%	14%	28%	3%	5%	100%
Risk Level							
Higher	22%	27%	19%	24%	21%	29%	22%
Moderate	49%	37%	38%	41%	50%	42%	45%
Low	29%	36%	44%	35%	30%	29%	33%

Initial Appearance and Bail Review Hearing Decisions

The initial appearance results are shown in Table 9, which indicates that a large percentage (about half) was released on their own recognizance (ROR). The remaining defendants were not granted an ROR but may have a bail set or be denied a bail (No Bond). The ROR rates were highest in St. Mary’s and Prince George’s, while Harford and Montgomery had the lowest ROR rate (36%). Montgomery also has the highest unsecured release rate at 21%. Releases by length of stay and risk level can be found in Appendix A.

For bail review hearings, the most frequent decision was Bond (71%) followed by a No Bond decision. Unsecured and ROR decisions were relatively rare. In terms of variations by county there was little difference except for Montgomery County, which issued an unsecured release decision for almost half of their cases.

Table 9. Initial Appearance Decisions by Jurisdiction

	Baltimore City	Harford	Mont	Prince George’s	St. Mary’s	Wash.	Total
Total Cases	1,520	105	460	914	95	150	3,244
Release Decision							
Unsecured	1%	0%	21%	1%	0%	5%	4%
ROR	48%	55%	36%	56%	62%	51%	49%
Bond	41%	35%	34%	35%	17%	37%	37%
No Bond	10%	9%	7%	7%	5%	8%	9%
Other/Missing	0%	1%	3%	2%	16%	0%	1%

Note: % may not total to 100% due to rounding

Table 10. Bail Review Hearing Decision by Jurisdiction

	Baltimore City	Harford	Mont	Prince George’s	St. Mary’s	Wash.	Total
Total Cases	529	31	143	171	34	49	957
Release Decision							
Unsecured	0%	3%	46%	0%	0%	0%	7%
ROR	4%	13%	1%	7%	15%	2%	5%
Bond	73%	68%	49%	77%	65%	82%	71%
No Bond	22%	16%	3%	16%	21%	16%	18%

Note: % may not total to 100% due to rounding

Release Rates

For the purposes of this report, “release” was defined as any defendant who was released prior to trial whether they were released on his/her own recognizance (ROR), given an unsecured personal bond, or they were able to post the bond amount set by the judicial officer. As shown in Table 9, a large percentage (70%) of the detained defendants was released at the initial

appearance. Of the 957 defendants that were later reviewed at the bail review hearing, 306 or 32% were released. In total, 78% of the defendants were released by the end of the study period. The average time for the initial appearance among defendants was less than one day, while the average time until release was 2 days for the bail review hearing. Releases by length of stay and risk level can be found in Appendix A.

Table 11. Summary of Cases Heard and Released by Type of Hearing

Decision	N	%
Cases Received	3,244	100%
No Initial Appearance Noted	41	1%
Initial Appearances	3,203	99%
Released	2,227	70%
Bail Review Hearings	957	30%
Released	306	9%
Not Released	711	22%
Average Time Until Release		
Overall	1 day	
Initial Appearance	< 1 day	
Bail Review Hearing	2 days	

Decisions by Risk Level

The initial appearance and bail review hearings were analyzed by the scored KPRA instrument to see if there was an association between the risk level and decision. This was a retroactive analysis and the Commissioners and Judges had no access to the KPRA instrument score at the time at which their decisions were made.

There was a statistically and substantive association between risk and hearing decision for the initial appearance (Table 12). Specifically, there were significantly higher proportions (5% and 61%) of defendants scored as lowest Risk who receive an unsecured or ROR decision. Conversely, lower risk defendants were less likely to have a Bond or No Bond decision than moderate or higher risk defendants

The opposite pattern exists for the higher risk defendants who were more likely to have a bond or be denied bond than their moderate and lowest risk counterparts. If risk were not being applied, the percentage of lowest and high risk would be the same.

Table 12. Initial Appearance Decisions by KPRA Risk Level

Initial Appearance	Risk Level		
	Low	Moderate	Higher
Defendants	1,072	1,448	724
Row %	33%	45%	22%
Hearing Decision			
Unsecured	5%	4%	3%
ROR	61%	48%	37%
Bond	30%	38%	46%
No Bond	4%	10%	14%
Overall Release Rate	90%	76%	65%
Avg Bond	\$33,986	\$22,544	\$21,625
Median Bond	\$5,000	\$5,000	\$5,000

There was no relationship between risk and the amount of the bond that was set by the court. As shown in Table 12, the median bond was \$5,000 for each risk level. The average bond amount was actually higher for the low risk group, though the higher amount is being driven by a few cases for which the bond was set at a very high level.

There was also a statistically and substantive association between risk and hearing decision (Table 13) for the bail review hearing, but it was less pronounced. Overall, low risk defendants were more likely to obtain release and less likely to receive a “no bond” decision from a judge.

In terms of bond amount, there was actually an inverse relationship between average and median bond amounts and risk level, with the largest difference between the higher risk group and both the low and moderate risk defendants. The lowest risk defendants received a higher median bond amount (\$10,000) than higher risk defendants (\$5,000).

Table 13. Bail Review Hearing Decisions by KPRA Risk Level

Bail Review Hearing	Risk Level		
	Low	Moderate	Higher
Defendants	198	453	306
Row %	21%	47%	32%
Unsecured	13%	7%	3%
ROR	5%	5%	5%
Bond	68%	70%	73%
No Bond	14%	19%	18%
Overall Release Rate	48%	31%	24%
Avg Bond	\$39,431	\$38,551	\$29,029
Median Bond	\$10,000	\$9,250	\$5,000

To what extent is the release decision related to the KPRA risk level? Table 14 shows that risk was factored into the overall KPRA risk level. Low risk defendants had a 90% chance of being released with the moderate and higher risk defendants having progressively lower chances of being released. This is further evidence that Commissioners and Judges made decisions based on the concept of risk which seems to be associated with objective risk measures. One can only expect that a more formal risk assessment process will serve to improve these existing rates.

An analysis was also conducted of the initial appearance and bail review hearing by KPRA risk level by jurisdiction. The tables for each jurisdiction are shown in Appendix B. The jurisdiction based results for the initial appearance do not vary from the overall results reported in Table 12. All six jurisdictions showed positive relationship between risk level and release decision.

Jurisdiction based analysis for the bail review hearing becomes increasingly limited for three counties (Harford, St. Mary's, and Washington) as the number of cases to be analyzed dropped below 50, making even basic statistical analysis unwarranted.

Among the remaining three jurisdictions, Baltimore City showed little relationship between bail review hearing decision and KPRA risk level. In Prince George's County, there was a higher proportion of higher risk cases for the No Bond group as compared to the Bond group. Very few cases were released via ROR and no cases were released via the unsecured option.

Montgomery County had a number of unsecured and ROR releases, as well as Bond and No Bond decisions. The Bond and No Bond cases had the highest proportion of higher Risk defendants.

Another way of presenting the data is shown in the Table 14. Here the percentages reflect the actual release rates whether achieved at the initial appearance or the bail review hearing (2,533 documented releases). For all three risk groups, most were released but the rates were much higher for the low risk defendants (90%) than for the higher risk group (65%). These release rates were higher than those reported by the Kentucky Division of Pretrial Services for their defendants for FY 2012. Table 14 also shows the combined FTA and re-arrest rates for the Kentucky defendants as well.

Table 14. Release Rates by KPRA Risk Level

Risk Level	Defendants	%	KPRA Release Rates	KPRA Recidivism Rates
Total Defendants	3,244	100%	244,881	244,881
Total Releases	2,533	78%	71%	71%
By Risk Level				
Low	959	90%	85%	94%
Moderate	1,103	76%	68%	87%
Higher	471	65%	54%	80%

The release rates by the type of crime for which the defendant has been charged can also be examined. There was substantial variation among the crimes in the overall release rates, but the

pattern was somewhat predictable among the most serious and violent crimes which have the lowest pretrial release rates (Table 15).

Overall, the charges where the defendant is the most likely to obtain release were drug possession (87%), FTAs (86%), disorderly conduct 86%), 2nd degree assault (84%), theft/fraud (79%), and DUI (75%). The category of “Violation of Court Orders” is somewhat related to FTAs, but includes a variety of court orders.

Table 15. Release Rates by Primary Crime

Primary Crime	Defendants	%	Release Rate
Murder	25	1%	12%
Other Violent	5	0%	20%
Robbery	99	3%	23%
Rape	4	0%	25%
Federal Hold	4	0%	50%
Violation of Court Order	105	3%	57%
Other Non-Violent	71	2%	58%
1 st Degree Assault	79	2%	57%
Weapons	86	3%	65%
Burglary	135	4%	67%
Other Sex Crimes	88	3%	74%
Drug Sale	180	6%	75%
DUI	50	2%	76%
Theft/Fraud	334	10%	79%
2 nd Degree Assault	475	15%	84%
Disorder. Conduct/Public Drunk.	182	6%	86%
FTA	690	21%	86%
Drug Possession	359	11%	87%
Other Traffic Violations	226	7%	92%
Resist Arrest	33	1%	94%
Child Abuse	14	0%	100%
Total	3,244	100%	78%

Changes in Hearing Results between Initial Appearance and Bail Review Hearings

A comparison was also done to identify changes in the hearing results between defendants who were not released at the initial appearance and the results of their subsequent bail review hearing. For the data submitted, there were 957 defendants that had both an initial appearance and bail review hearing. An assumption is that these defendants were denied pretrial release at the initial appearance and were having their cases reviewed by Judges at the bail review hearing.

Table 16 shows the results of this comparison. It is interesting to note that the number of “No Bond” decisions dropped from 237 to 169 while the number of ROR and unsecured decisions increase from 0 to 46 and 3 to 67, respectively. Therefore, the bail review hearing decision is

serving to increase the number of pretrial releases. Table 22 contains changes in bond information between the initial appearance and bail review hearing decisions.

Table 17 shows the average bail amounts set at the initial appearance and bail review hearings. There was little if any change in the bail amounts, suggesting that the major change that occurs at the bail review hearing was the reduction in No Bond decisions. Note however that this was likely due to the fact that Court Commissioners are statutorily prohibited from setting bond in certain instances. This study was unable to determine the number of those cases.

Table 16. Initial Appearance and Bail Review Hearing results for Defendants with Both Hearings

	Initial Appearance		Bail Review Hearing	
	Defendants	%	Defendants	%
No Bond	237	25%	169	18%
Bond	689	72%	675	71%
ROR	0	0%	46	5%
Unsecured	3	<1%	67	7%
N/A	28	3%	0	0%
Total	957	100%	957	100%

Table 17. Initial Appearance and Bail Review Bail Amounts for Defendants with Both Hearings

Hearing Decision	Defendants	Initial Appearance	Bail Review Hearing
Total	957	957	957
Average Bond		\$38,667	\$35,919
Unsecured	67	\$3,333	\$3,133
ROR	46	N/A	N/A
Bond	675	\$38,996	\$39,041

Tables 18 and 19 further show the comparison of the decisions made by the Court Commissioner and the Judges for 689 defendants who received a bond at the initial appearance and had a subsequent bail review hearing. For these cases, the judges did not modify the initial appearance bond in 56% of the cases. However, the judges lowered the bond in 28% of the cases and increased it in 16% of the cases. The Judges also released an additional 76 (11%) defendants who were given a bond by the Court Commissioners (ROR and unsecured combined). When a Court Commissioner gave a “no bond” decision the Judge continued that ruling 54% of the time and also set a bond 35% of the time while releasing 26 defendants (11%).

Table 18. Adjustment of Initial Appearance Bond Decision by Judge At Bail Review Hearing

Bail Review Hearing Decision	Received a Bond by Court Commissioner	
	Defendants	%
Bond	578	84%
Bond stayed the same	325	56%
Bond Increased	91	16%
Bond Decreased	160	28%
No Bond	35	5%
ROR	30	4%
Unsecured	46	7%
Total	689	100%

Table 19. Adjustment of Initial Appearance No Bond Decision by Judge At Bail Review Hearing

Bail Review Hearing Decision	Received a No Bond by Court Commissioner	
	Defendants	%
Bond	82	35%
No Bond	129	54%
ROR	12	5%
Unsecured	14	6%
Total	689	100%

Profile of the Non-Released Defendants

There were 711 defendants who were not released as of November 1, 2014. Individuals not released likely represent the bulk of the local jail’s pretrial population. Most research has shown that defendants who were unable to secure release within the first few days of detention tend to remain in jail until their criminal cases are disposed of by the courts. The following tables show the attributes of these defendants who were not released relative to their levels of risk, bond and charges.

While approximately (35%) were in the higher risk group, the remaining 65% were either moderate to low risk for FTA or being rearrested while under pretrial release status (Table 20). At both the initial appearance and bail review hearings, about 68% had a bond set and could have been released had they been able to secure the funds to post bail. Another 30% had a No Bond order set indicating no possibility for release.

Table 20. Attributes of the Non-Released Defendants

Attribute	Defendants	Percent
Total	711	100.0
Risk Level		
Higher Risk	253	35.6
Moderate Risk	345	48.5
Low Risk	113	15.9
Initial Appearance Decision		
No Bond	213	30.0
Bond	483	67.9
Unsecured	2	0.3
Not Applicable	13	1.8
Bail Review Hearing Decision		
No Bond	161	22.6
Bond	480	67.5
Unsecured Release	8	1.1
ROR	2	0.3
Not Applicable	25	3.5
Missing	35	4.9
Offense		
Violent	247	34.7
Non-Violent	294	41.4
Other Sex Crimes	23	3.2
Court Related	147	20.7

There was a wide variety of crimes ranging from violent to court related offenses for which detained defendants were arrested for. The most frequent crimes were FTAs, 2nd degree assault, robbery, and theft/fraud. The primary charge of each defendant detained was also examined by risk level in Table 21.

Table 22 shows the wide array of bail amounts for the non-released group by their risk levels at the initial appearance. As expected the bail amounts were on average, higher than the amounts for the entire sample—but there was considerable range in the bond amount. It is also noteworthy that the low Risk group had, on average, considerably higher bonds than the moderate and higher risk defendants.

The same pattern persisted for the bail review hearing (Table 21). While the low risk group had a higher average bail amount, it is important to note that the differences in bail amounts between risk levels was less than what existed at the initial appearance.

Table 21. Primary Charge for the Non-Releases by Risk Level

Crime	Risk Level				Total	Percent
	Low	Moderate	Higher	Total		
FTA	5	50	45	100	14.1	
2 nd Degree Assault	21	43	14	78	11.0	
Robbery	25	34	17	76	10.7	
Theft/Fraud	7	29	33	69	9.7	
Drug Possession	3	22	22	47	6.6	
Drug Sale	4	21	20	45	6.3	
Burglary	5	22	18	45	6.3	
Violation of Court Order	25	2	18	45	6.3	
1 st Degree Assault	6	22	6	34	4.8	
Other Non-Violent	7	15	8	30	4.2	
Weapons	8	15	7	30	4.2	
Disorderly Conduct/Public Drunk	2	14	10	26	3.7	
Other Sex Crimes	2	12	9	23	3.2	
Murder	7	9	6	22	3.1	
Other Traffic Violations	0	12	6	18	2.5	
DUI	7	3	2	12	1.7	
Other Violent	0	2	2	4	0.6	
Rape	1	1	1	3	0.4	
Federal Hold	1	0	1	2	0.3	
Resist Arrest	0	1	1	2	0.3	

The reason the bonds between the initial appearance and bail review hearing were lower is because Judges were disproportionately lowering the bail amounts set by the Commissioners. Table 22 shows that of 689 cases for which a bond was set by a Commissioner, 160 were lowered at the bail review hearing. Furthermore, another 76 defendants were released on ROR or Unsecured Bails. This means that a total of 236 (39%) defendants benefited by the bail review Hearing by either having their bail amounts lowered or gaining release. Conversely, 126 defendants had their bonds increased or received a no bond decision.

Table 22. Initial Appearance Bail Amount for the Non-Releases by Risk Level

Initial Appearance Bail Amount	Risk Level		
	Low	Moderate	Higher
Defendants	79	234	170
Row %	16%	48%	35%
<\$1,001	4%	5%	9%
\$1,001 - \$2,500	4%	9%	12%
\$2,501 - \$5,000	9%	25%	29%
\$5,001 - \$10,000	13%	15%	15%
\$10,001 - \$15,000	6%	5%	5%
\$15,001 - \$25,000	11%	10%	8%
\$25,001 - \$50,000	10%	13%	11%
\$50,001 - \$100,000	19%	11%	4%
>\$100,000	24%	7%	7%
Average Bail Amount	\$98,324	\$36,086	\$31,743

Table 23. Bail Review Hearing Bail Amount for Non-Releases by Risk Level

Bail Review Hearing Bail Amount	Risk Level		
	Low	Moderate	Higher
Defendants	113	345	253
%	16%	49%	36%
<\$1,001	9%	13%	13%
\$1,001 - \$2,500	9%	8%	14%
\$2,501 - \$5,000	4%	20%	21%
\$5,001 - \$10,000	17%	14%	16%
\$10,001 - \$15,000	5%	4%	2%
\$15,001 - \$25,000	9%	10%	7%
\$25,001 - \$50,000	13%	11%	11%
\$50,001 - \$100,000	16%	12%	8%
>\$100,000	17%	9%	9%
Average Bail Amount	\$61,806	\$46,812	\$35,035

Major Findings

1. Over a two-week period a total of 3,244 defendants were arrested and booked into six local jail systems for a variety of crimes.
2. The vast majority (78%) of these defendants were able to secure release within a few days, with 70% securing release at the initial appearance.
3. The most frequent offenses for these defendants were FTA (21%), 2nd degree assault (15%), and drug possession (11%).
4. There was considerable variance in the overall release rates of defendants by the primary crime for which they were charged. Overall, release rates were lowest for defendants charged with the most violent crimes (murder, rape and robbery).
5. In terms of risk assessment, 33% of the sample was scored under the Kentucky risk assessment instrument as low risk, 45% were moderate risk, and 33% were higher risk.
6. The arrestee's average risk score did not vary significantly by jurisdiction despite significant differences in the crime, arrest and jail incarceration rates of each jurisdiction.
7. There was a strong relationship between scored risk level and overall release rates with 90% of lowest risk defendants released compared to 76% for moderate risk, and 65% of

the higher risk defendants.

8. While there was a correlation between risk levels and overall release decisions, there was no such relationship between risk and the bond amount that was set by the court.
9. At the bail review hearing, a number of defendants who were given No Bond at the initial appearance were subsequently released on ROR and Bond or Unsecured Bond.
10. Overall, the bail review hearing seems to favor defendants, with many of them having the bail amounts set at the initial appearance being lowered or securing pretrial release.
11. Overall, the severity of the crime and the scored risk level were both associated with initial appearance and bail review decisions.
12. At both the initial and bail review hearings, there was an inverse relationship between bail amounts and risk levels. Low risk defendants had higher bail amounts than moderate and higher risk defendants.
13. Of those defendants who were unable to secure release by the end of the study, 16% were low risk, 49% were moderate risk, and 36% were high risk. Regardless of risk level, about two-third of the not released group were not able to post a bond amount by the end of the study.

Policy Recommendations

1. The state should develop its own risk assessment instrument that has been tested and validated on its own defendant population.
2. Such a risk assessment instrument study can be completed with the instrument readied for implementation within six months.
3. Adoption of a standardized risk assessment system will help improve the existing risk-based decisions being made at the initial and bail review hearings.
4. Implementation of a statewide, validated risk assessment system would also help identify suitable candidates for release who are now unable to secure release which in turn would have a positive impact on the local pretrial population.

Overview of the Proposed Validation Study

A validation study for a pretrial risk statewide assessment system is designed to identify screening factors that are statistically associated with two key measures of pretrial performance: 1) failure to appear (FTA) and/or 2) re-arrest while under pretrial supervision. Potential individual scoring items (also known as the independent variables) are tested to see which ones have the strongest relationship with FTA and re-arrests. The screening items selected are then weighted based on their statistical strengths to create a scale that can be translated into risk levels (low, moderate and higher).

The validation research design consists of creating a cohort of defendants arrested, booked into custody and subsequently released on some form of pretrial release order (e.g. bail, ROR). For each released defendant, both potential risk factors and the FTA/re-arrest data are collected. Statistical analysis is then performed (both bivariate and multi-variate) to determine which set of

risk variables perform best in identifying the actual risk level of the released defendants.

District Court of Maryland

QUICK REFERENCE GUIDE



Restrictions on Pre-trial Release (Commissioner must hold no bond – no discretion)

- Escape CP 5-202(a)
- Drug Kingpin CP 5-202(b)
- Crime of Violence as listed CP5-202 with previous CP 5-202(c)
conviction of crime of violence in any state
- Crime listed under CP 5-202(d) while out on bond CP 5-202(d)
charged with the same, or another offense listed
under that section
- Violation of temporary or final protective order CP 5-502(e)
protective order with conditions/charged with abuse or
threats to abuse — **Does not apply to Interim Order**
- Crime involving a firearm listed under CP 5-202(f) CP 5-202(f)
- CP 5-202(f) after being convicted of a crime involving a
firearm listed under CP 5-202(f)
- Charged with ANY CRIME, and a registered sex offender CP 5-202(g)
under CP 11-701 *et seq*
- Crime punishable by life imprisonment CP 5-102 and Rule 4-216(d)
- Fugitive Warrants
- Judge Preset Warrants on Violation of Probation

Chief Judge John P. Morrissey
District Court of Maryland
580 Taylor Avenue
Annapolis, MD. 21401
(410) 260-1525
<http://mdcourts.gov/district/index.html>

Appendix A
Releases by Length of Stay and Risk Level

Releases			
Length of Stay	Risk Level		
	Low	Moderate	Higher
Defendants	959	1,102	471
Row %	38%	44%	19%
	Column %		
Less than 1 day	44%	36%	35%
1 day	47%	50%	49%
2 days	6%	8%	9%
3 days	1%	3%	3%
4 days	0%	1%	1%
5 or more days	2%	2%	3%

Appendix B

Initial Appearance and Bail Review Hearings by Jurisdiction

Baltimore City			
Initial Appearance	Risk Level		
	Low	Moderate	Higher
Defendants	445	748	327
Row %	29%	49%	22%
	Column %		
Unsecured	1%	1%	1%
ROR	60%	48%	34%
Bond	34%	41%	50%
No Bond	5%	11%	15%
Bail Review Hearing	Risk Level		
	Low	Moderate	Higher
Defendants	97	267	165
Row %	18%	50%	31%
	Column %		
Unsecured	0%	0%	0%
ROR	6%	3%	4%
Bond	73%	74%	73%
No Bond	21%	23%	22%
Overall Release Rate	83%	69%	56%
Avg Bond	\$51,078	\$32,520	\$31,094
Median Bond	\$10,000	\$10,000	\$5,000

Harford County			
Initial Appearance	Risk Level		
	Low	Moderate	Higher
Defendants	38	38	28
Row %	37%	37%	27%
	Column %		
Unsecured	0%	0%	0%
ROR	76%	59%	21%
Bond	16%	31%	68%
No Bond	8%	8%	11%
Bail Review Hearing	Risk Level		
	Low	Moderate	Higher
Defendants	7	9	15
Row %	23%	29%	48%
	Column %		
Unsecured	0%	0%	7%
ROR	14%	22%	7%
Bond	71%	67%	67%
No Bond	14%	11%	20%
Overall Release Rate	90%	90%	61%
Avg Bond	\$34,250	\$17,667	\$9,947
Median Bond	\$10,000	\$5,000	\$5,000

Montgomery County			
Initial Appearance	Risk Level		
	Low	Moderate	Higher
Defendants	200	168	81
Row %	45%	37%	18%
	Column %		
Unsecured	18%	25%	21%
ROR	44%	36%	25%
Bond	35%	32%	40%
No Bond	4%	8%	15%
Bail Review Hearing	Risk Level		
	Low	Moderate	Higher
Defendants	43	58	42
Row %	30%	41%	29%
	Column %		
Unsecured	58%	55%	21%
ROR	2%	2%	0%
Bond	35%	41%	74%
No Bond	5%	2%	5%
Overall Release Rate	96%	89%	72%
Avg Bond	\$9,588	\$9,097	\$12,954
Median Bond	\$3,000	\$3,250	\$3,000

Prince George's County			
Initial Appearance	Risk Level		
	Low	Moderate	Higher
Defendants	311	370	218
Row %	35%	41%	24%
	Column %		
Unsecured	3%	1%	1%
ROR	70%	52%	45%
Bond	26%	39%	43%
No Bond	2%	8%	12%
Bail Review Hearing	Risk Level		
	Low	Moderate	Higher
Defendants	38	77	56
Row %	22%	45%	33%
	Column %		
Unsecured	0%	0%	0%
ROR	5%	8%	7%
Bond	84%	78%	71%
No Bond	11%	14%	21%
Overall Release Rate	94%	83%	77%
Avg Bond	\$28,331	\$12,327	\$11,328
Median Bond	\$5,000	\$5,000	\$3,000

St. Mary's County			
Initial Appearance	Risk Level		
	Low	Moderate	Higher
Defendants	26	39	15
%	33%	49%	19%
	Column %		
Unsecured	0%	0%	0%
ROR	92%	72%	47%
Bond	8%	26%	27%
No Bond	0%	3%	27%
Bail Review Hearing	Risk Level		
	Low	Moderate	Higher
Defendants	4	17	13
%	12%	50%	38%
	Column %		
Unsecured	0%	0%	0%
ROR	0%	18%	15%
Bond	100%	47%	77%
No Bond	0%	35%	8%
Overall Release Rate	93%	83%	60%
Avg Bond	\$126,750	\$6,700	\$20,000
Median Bond	\$126,750	\$5,000	\$20,000

Washington County			
Initial Appearance	Risk Level		
	Low	Moderate	Higher
Defendants	44	63	43
Row %	29%	42%	29%
	Column %		
Unsecured	9%	2%	5%
ROR	57%	49%	47%
Bond	32%	37%	42%
No Bond	2%	13%	7%
Bail Review Hearing	Risk Level		
	Low	Moderate	Higher
Defendants	9	25	15
Row %	18%	51%	31%
	Column %		
Unsecured	0%	0%	0%
ROR	0%	4%	0%
Bond	89%	80%	80%
No Bond	11%	16%	20%
Overall Release Rate	91%	76%	70%
Avg Bond	\$48,278	\$19,521	\$26,350
Median Bond	\$6,250	\$7,500	\$10,000

Factors to be considered by Commissioners in determining release (Md. Rule 4-216)

- Nature and circumstances of the offense charged
- Nature of the evidence against the defendant
- Potential sentence upon conviction
- Defendant's prior record of appearance at court, including flight and FTAs
- Defendant's family ties, employment status, history and financial resources
- Defendant's reputation and character, including mental condition
- Defendant's length of time of residence in the community and the state's recommendations from pre-trial services, State's Attorneys and defendant's counsel
- Danger of the defendant to the victim, another person or community
- Danger of the defendant to himself or herself
- Any other factors bearing on willful failure to appear and safety of the victim, another person or community
- Prior convictions and/or prior adjudications of delinquency that occurred within three years of the date the defendant is charged as an adult



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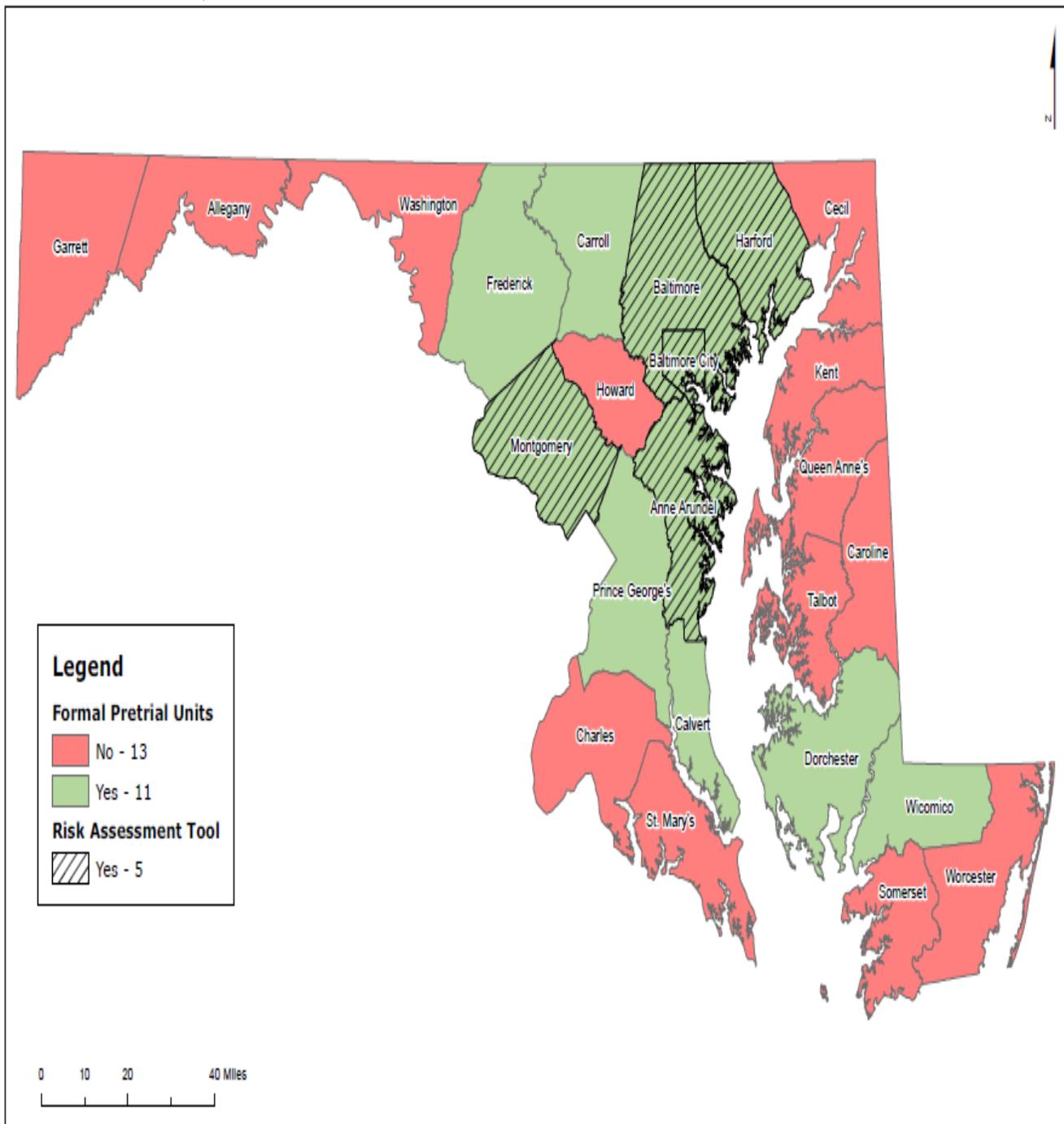
ATTN: District Court of Maryland Appointed Attorneys Program
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Maryland State Law Library

410.260.1430 or 888.216.8156. Web: <http://www.lawlib.state.md.us/>

APPENDIX B

Counties with Formal Pretrial Units in Maryland



Source: Governor's Office of Crime Control & Prevention
Date Extracted: June 17, 2014
Map Created: June 2014



APPENDIX C – 2012 COURT COMMISSIONER ACTIVITIES BY DISTRICT

District	Jurisdictions	Charging Documents Issued	Initial Appearances	Bonds	Interim Filings	Total Activities
1	Baltimore City	13,319	51,073	15,490	4,501	84,383
2	Dorchester, Wicomico, Somerset, Worcester	4,102	11,007	3,445	358	18,912
3	Cecil, Kent, Queen Anne's, Caroline, Talbot	4,507	7,060	3,512	599	15,678
4	Calvert, Charles, St. Mary's	5,499	8,680	3,232	1,746	19,157
5	Prince George's	8,778	31,900	10,307	5,038	56,023
6	Montgomery	5,190	14,565	7,304	1,904	28,963
7	Anne Arundel	5,694	13,641	5,054	1,990	26,379
8	Baltimore County	9,133	17,026	8,834	2,523	37,516
9	Harford	2,960	3,244	1,696	714	8,614
10	Carroll, Howard	3,649	5,701	3,781	803	13,934
11	Frederick, Washington	4,546	6,336	3,301	1,567	15,750
12	Allegany, Garrett	2,613	2,662	1,293	417	6,985
	Total	69,990	172,895	67,249	22,160	332,294

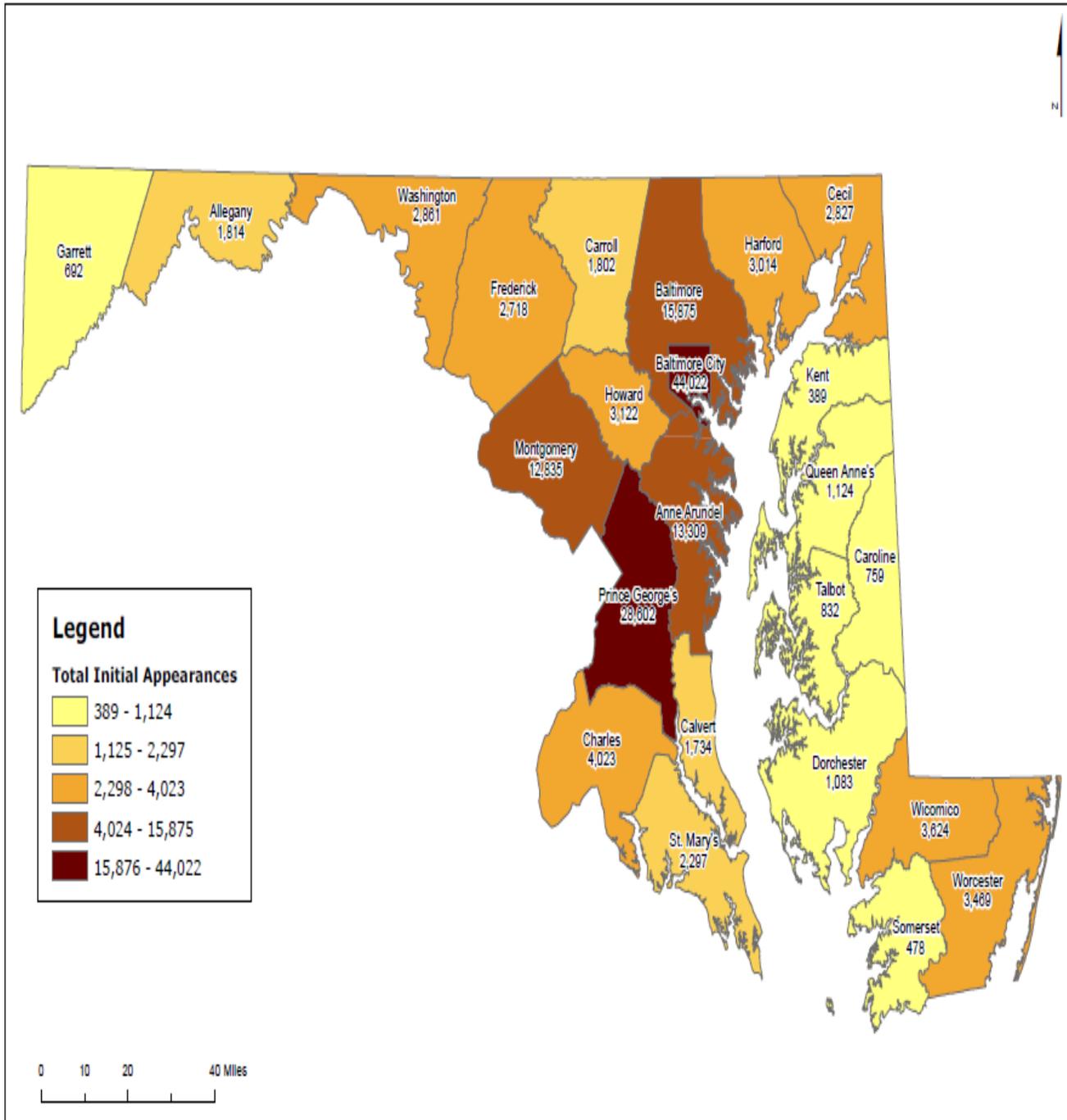
Source: Maryland Judiciary

District	Jurisdictions	Charging Documents Issued	Initial Appearances	Bonds	Interim Filings	Total Activities
1	Baltimore City	15.8%	60.5%	18.4%	5.3%	100.0%
2	Dorchester, Wicomico, Somerset, Worcester	21.7%	58.2%	18.2%	1.9%	100.0%
3	Cecil, Kent, Queen Anne's, Caroline, Talbot	28.7%	45.0%	22.4%	3.8%	100.0%
4	Calvert, Charles, St. Mary's	28.7%	45.3%	16.9%	9.1%	100.0%
5	Prince George's	15.7%	56.9%	18.4%	9.0%	100.0%
6	Montgomery	17.9%	50.3%	25.2%	6.6%	100.0%
7	Anne Arundel	21.6%	51.7%	19.2%	7.5%	100.0%
8	Baltimore County	24.3%	45.4%	23.5%	6.7%	100.0%
9	Harford	34.4%	37.7%	19.7%	8.3%	100.0%
10	Carroll, Howard	26.2%	40.9%	27.1%	5.8%	100.0%
11	Frederick, Washington	28.9%	40.2%	21.0%	9.9%	100.0%
12	Allegany, Garrett	37.4%	38.1%	18.5%	6.0%	100.0%
	Total	21.1%	52.0%	20.2%	6.7%	100.0%

Source: Maryland Judiciary

APPENDIX D

2013 Initial Appearances by County in Maryland

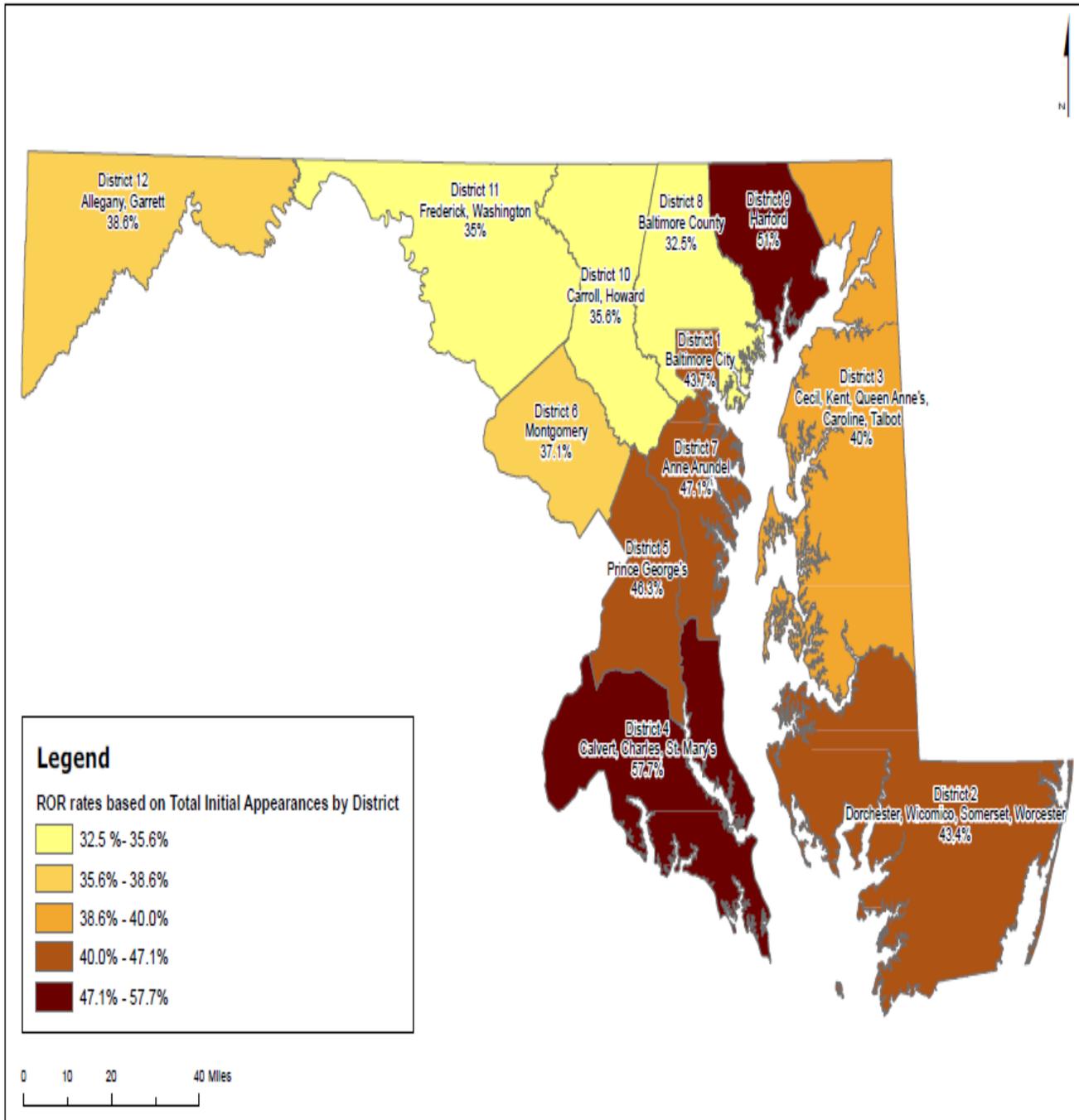


Source: Maryland Judiciary
Date Extracted: June 17, 2014
Map Created: June 2014



APPENDIX E

2013 Release on Recognizance (ROR) Rates by District in Maryland



Source: Maryland Judiciary
Date Extracted: June 17, 2014
Map Created: June 2014



APPENDIX F – 2013 INITIAL APPEARANCE DECISIONS BY DISTRICT

District	Jurisdictions	No Probable Cause	Bond	No Bond	ROR	Total Initial Appearances
1	Baltimore City	68	21,645	3,071	19,238	44,022
2	Dorchester, Wicomico, Somerset, Worcester	437	4,163	296	3,758	8,654
3	Cecil, Kent, Queen Anne's, Caroline, Talbot	19	3,293	247	2,372	5,931
4	Calvert, Charles, St. Mary's	280	2,801	327	4,646	8,054
5	Prince George's	1,739	12,718	910	13,235	28,602
6	Montgomery	178	7,551	338	4,768	12,835
7	Anne Arundel	474	6,216	350	6,269	13,309
8	Baltimore County	107	9,943	661	5,164	15,875
9	Harford	71	1,256	149	1,538	3,014
10	Carroll, Howard	25	2,872	273	1,754	4,924
11	Frederick, Washington	120	3,282	224	1,953	5,579
12	Allegany, Garrett	10	1,414	114	968	2,506
	Total	3,528	77,154	6,960	65,663	153,305

Source: Maryland Judiciary

District	Jurisdictions	No Probable Cause	Bond	No Bond	ROR	Total Initial Appearances
1	Baltimore City	0.2%	49.2%	7.0%	43.7%	100.0%
2	Dorchester, Wicomico, Somerset, Worcester	5.0%	48.1%	3.4%	43.4%	100.0%
3	Cecil, Kent, Queen Anne's, Caroline, Talbot	0.3%	55.5%	4.2%	40.0%	100.0%
4	Calvert, Charles, St. Mary's	3.5%	34.8%	4.1%	57.7%	100.0%
5	Prince George's	6.1%	44.5%	3.2%	46.3%	100.0%
6	Montgomery	1.4%	58.8%	2.6%	37.1%	100.0%
7	Anne Arundel	3.6%	46.7%	2.6%	47.1%	100.0%
8	Baltimore County	0.7%	62.6%	4.2%	32.5%	100.0%
9	Harford	2.4%	41.7%	4.9%	51.0%	100.0%
10	Carroll, Howard	0.5%	58.3%	5.5%	35.6%	100.0%
11	Frederick, Washington	2.2%	58.8%	4.0%	35.0%	100.0%
12	Allegany, Garrett	0.4%	56.4%	4.5%	38.6%	100.0%
	Total	2.3%	50.3%	4.5%	42.8%	100.0%

Source: Maryland Judiciary

APPENDIX G – 2013 FAILURE TO APPEAR RATES BY BAILTYPE

County	ROR FTA Rate	Cash FTA Rate	Percentage FTA Rate	Corp FTA Rate	Property FTA Rate	Unsecured FTA Rate	Other FTA Rate	Total FTA Rate
Allegany	11.1%	2.4%	4.5%	6.2%	0.0%	3.5%	0.0%	8.1%
Anne Arundel	13.3%	10.5%	15.4%	11.6%	4.5%	17.4%	0.0%	12.6%
Baltimore City	13.9%	5.1%	1.8%	5.1%	2.6%	6.4%	0.0%	10.7%
Baltimore County	11.0%	4.7%	15.5%	6.9%	1.5%	10.5%	50.0%	8.7%
Calvert	7.1%	0.0%	2.7%	7.5%	8.6%	6.6%	0.0%	6.7%
Caroline	12.7%	0.0%	2.8%	4.0%	6.6%	5.3%	0.0%	9.3%
Carroll	8.9%	14.2%	0.0%	4.1%	0.0%	7.8%	0.0%	7.2%
Cecil	11.5%	0.0%	11.6%	11.0%	2.6%	16.0%	0.0%	11.4%
Charles	21.2%	10.5%	13.3%	14.9%	7.8%	16.2%	0.0%	18.9%
Dorchester	8.5%	2.5%	2.6%	3.8%	0.0%	4.0%	0.0%	5.9%
Frederick	9.5%	0.0%	9.7%	11.1%	7.1%	13.7%	0.0%	10.1%
Garrett	7.0%	0.0%	6.7%	12.1%	0.0%	15.1%	0.0%	8.1%
Harford	10.4%	0.0%	2.3%	8.8%	0.0%	2.2%	0.0%	9.3%
Howard	8.7%	0.0%	5.4%	5.0%	2.9%	10.7%	0.0%	8.0%
Kent	4.5%	0.0%	0.0%	10.0%	0.0%	5.0%	0.0%	6.1%
Montgomery	19.5%	5.3%	8.5%	12.3%	10.4%	13.1%	0.0%	14.8%
Prince George's	18.2%	8.0%	10.1%	10.8%	8.7%	19.4%	0.0%	15.3%
Queen Anne's	11.0%	0.0%	3.7%	7.1%	14.2%	9.5%	0.0%	9.5%
Somerset	6.1%	14.2%	0.0%	2.3%	9.0%	5.6%	0.0%	5.1%
St. Mary's	16.6%	11.1%	8.5%	9.6%	13.5%	16.6%	0.0%	15.1%
Talbot	7.3%	9.5%	8.5%	5.4%	5.2%	14.4%	0.0%	7.7%
Washington	12.1%	0.0%	10.8%	6.4%	2.3%	12.1%	0.0%	9.4%
Wicomico	11.2%	4.0%	3.0%	7.2%	0.0%	11.0%	0.0%	9.3%
Worcester	14.8%	0.0%	12.2%	13.9%	18.1%	10.5%	0.0%	14.4%
Total	14.3%	6.0%	7.7%	7.8%	7.7%	11.6%	2.9%	11.7%

Source: Maryland Judiciary

Cash - cash, certified or cashier's check or approved credit card (Vital Check).

Percentage - A percentage of the bail is accepted as collateral for release from detention; default is for entire bond amount.

Corp - Licensed Insurance Insurer using Power of Attorney that reflects the amounts.

Property - Real estate located in Maryland owned by defendant or surety.

Unsecured - Signature is collateral for release; default is for entire amount of bond.

Note: The Commission did not have time discuss these figures in depth. To date there has been no independent examination of this data.

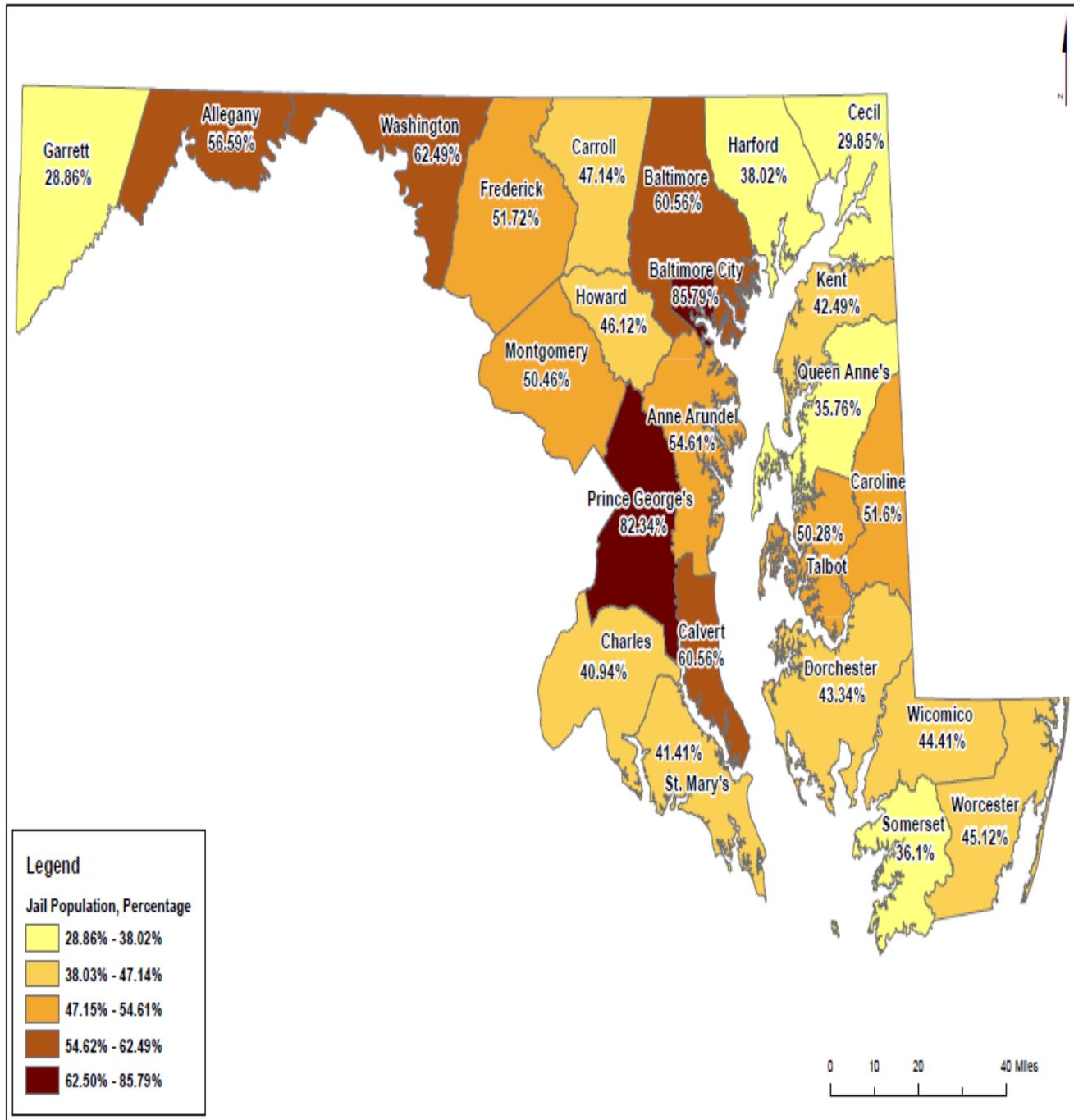
APPENDIX H – TYPES OF BONDS SET AND POSTED TO A COURT COMMISSIONER (2013)

County	Cash	Percent	Corp	Property	Unsecured	Other	Bonds Set
Allegany	5.2%	13.8%	68.7%	5.2%	7.2%	0.0%	792
Anne Arundel	10.4%	1.8%	77.1%	6.0%	4.6%	0.1%	3,640
Baltimore City	3.9%	1.9%	89.6%	1.7%	2.8%	0.1%	11,258
Baltimore County	3.5%	0.5%	84.5%	2.2%	9.2%	0.0%	5,951
Calvert	1.1%	20.5%	22.5%	8.3%	47.5%	0.0%	701
Caroline	1.7%	14.9%	53.2%	6.4%	23.8%	0.0%	235
Carroll	0.9%	5.6%	45.3%	2.0%	45.9%	0.3%	752
Cecil	1.4%	10.2%	70.4%	3.2%	14.3%	0.3%	1,173
Charles	2.4%	20.1%	51.5%	21.2%	4.7%	0.0%	780
Dorchester	20.6%	9.8%	60.1%	3.1%	6.4%	0.0%	388
Frederick	1.8%	13.5%	68.6%	7.1%	8.9%	0.0%	982
Garrett	7.2%	35.4%	39.2%	2.4%	15.8%	0.0%	209
Harford	4.0%	4.3%	84.4%	2.1%	4.7%	0.5%	966
Howard	1.9%	8.6%	40.2%	2.0%	47.3%	0.1%	1,719
Kent	3.7%	6.7%	59.3%	0.7%	29.6%	0.0%	135
Montgomery	2.5%	12.3%	30.6%	9.5%	45.1%	0.0%	5,250
Prince George's	1.4%	4.8%	59.1%	28.8%	5.9%	0.0%	6,171
Queen Anne's	2.1%	9.2%	67.1%	7.2%	14.4%	0.0%	292
Somerset	2.6%	0.7%	47.3%	4.0%	45.4%	0.0%	273
St. Mary's	4.6%	36.1%	23.8%	26.3%	9.2%	0.0%	391
Talbot	5.4%	12.0%	51.3%	4.8%	24.7%	1.8%	392
Washington	1.4%	8.5%	72.6%	3.9%	13.6%	0.0%	1,085
Wicomico	1.7%	6.9%	66.9%	1.9%	22.5%	0.1%	1,452
Worcester	1.4%	9.9%	58.6%	1.9%	28.1%	0.0%	573
Total	3.6%	6.1%	67.7%	7.7%	14.8%	0.1%	45,560

Source: Maryland Judiciary

APPENDIX I

2014 YTD Average Percentage of the Daily Jail Population that is Pretrial

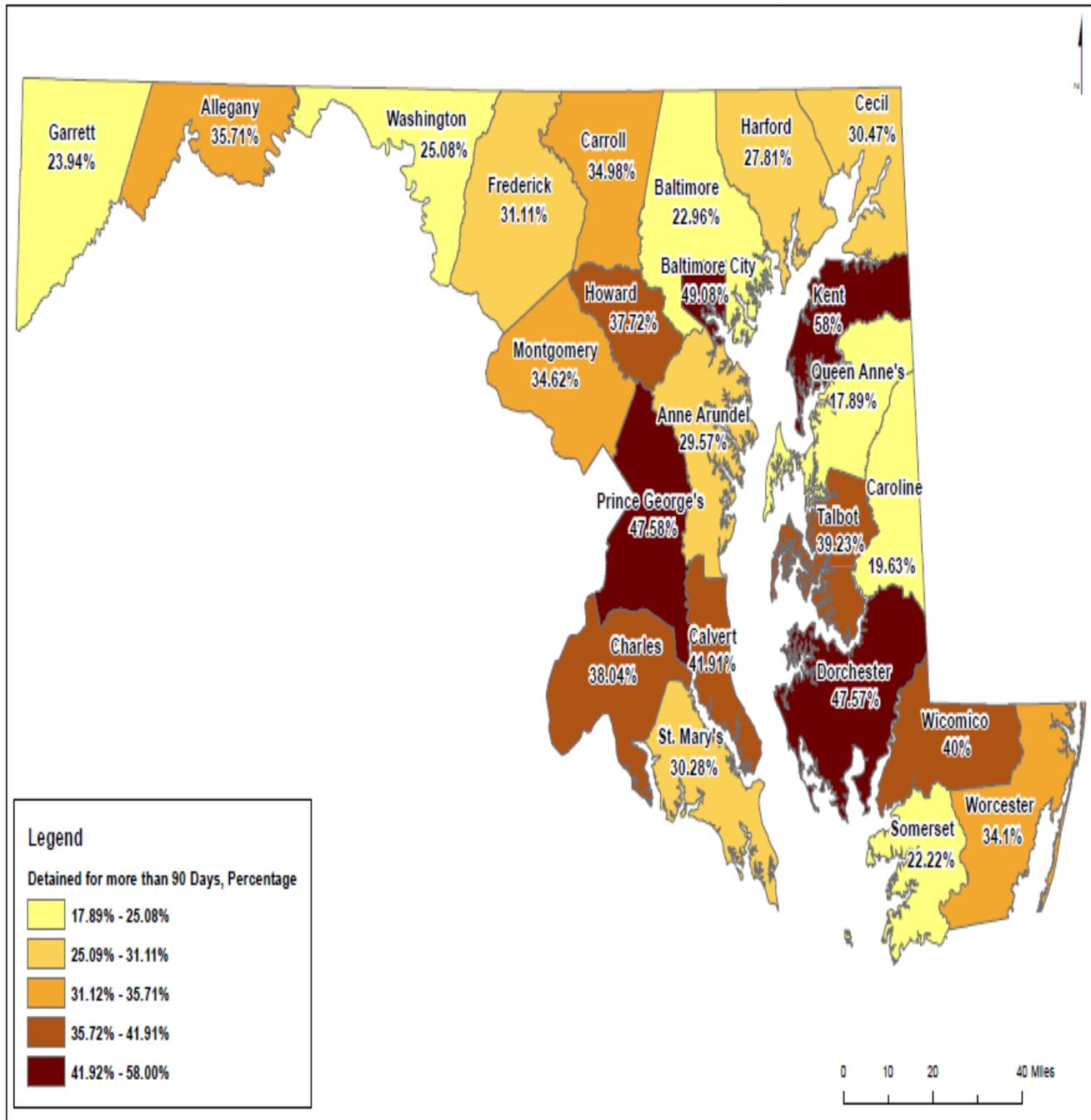


Source: Maryland Correctional Administrators Association
Date Extracted: July 3, 2014
Map Created: July 2014



APPENDIX J

2014 YTD Average Intake Pretrial Population that has been Detained for more than 90 Days



Source: Maryland Correctional Administrators Association
 Date Extracted: July 3, 2014
 Map Created: July 2014

