

Finishing the Job: Modernizing Maryland's Bail System
An Abell Report
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APPENDIX
REALLOCATING EXISTING RESOURCES
TO MEET THE NEEDS OF BAIL REFORM IN MARYLAND

The reports of the Task Force and Commission did not address possible costs of implementing their recommendations. And concerns have been raised about the costs that would be involved in doing so. But as policymakers are showing in Colorado, Kentucky, and elsewhere in the country, an effective approach that manages risk and focuses resources in a rational way reduces overall system costs. Maryland can make proven, evidence-based changes to the pretrial system work, like those seen elsewhere, without a hefty price tag by reallocating existing resources.

Any discussion of costs should begin with the realization that very little is known about the costs of current bail practices in Maryland.

- How many defendants who could demonstrate high probabilities of success on pretrial release are sitting in jail in Maryland because the means do not exist to accurately measure their risk?
- How much does this cost Maryland taxpayers?
- In those Maryland jurisdictions where risk assessment is available, how many low- and moderate-risk defendants remain in jail because of the policies and practices of the pretrial services program, or lack of judicial confidence in those programs?
- What price is paid, in terms of lost wages, lost homes, and lost family connections, by those who are unnecessarily detained?
- How many high-risk defendants buy their way out of jail, and what are the resulting costs to public safety?

The 2014 study completed for the Commission has shed some light on some of these questions. The study sampled two weeks worth of cases from six representative Maryland jurisdictions and employed a pretrial risk assessment tool (normed for Kentucky) to estimate the risk level of defendants in the sample. While certainly not a definitive study, the findings provide useful data for estimating caseloads if Maryland jurisdictions were to implement pretrial supervision. For the purposes of this estimate, it is assumed that the 45 percent of defendants who scored as moderate risk in the study would form the pool of candidates from which the supervised release population would come.ⁱ As the study showed, a number of these moderate-risk defendants were held

without bond at the District Court bond review, presumably because they met the criteria for the rebuttable presumption for detention under the Maryland statute. There were also many moderate-risk defendants who were released on recognizance or unsecured bond in the study. While many of these releases can be attributable to the fact that the risk assessment tool was not available at the time the decision was made, it is clear from other jurisdictions—particularly Kentucky, as described in the previous section—that courts are comfortable releasing some moderate-risk defendants without supervision. Thus, the supervision caseload estimate starts with the assumption that an effective bail system in Maryland will have the capacity to supervise 33 percent of all defendants coming into the system.

The next assumption that is made for this estimate is that defendants will remain under supervision for an average of four months. Thus, the supervision caseload will turn over three times each year. The final assumption is a staff-to-defendant caseload ratio of 1:75, a figure that is typical for pretrial services programs.

Using these assumptions, Table A-1 shows the estimated number of supervision staff that would be needed in each of Maryland's counties.ⁱⁱ

Table A-1. Estimation of Supervision Resources

Jurisdiction	Annual Number of Criminal Case Filings	Estimated Annual Number of Supervision Cases	Estimated Supervision Caseloads	Estimated Size of Supervision Staff
Allegany Co.	598	197	65	1
Anne Arundel Co.	4,391	1,449	483	6
Baltimore City	44,022	14,527	4,842	64
Baltimore Co.	15,875	5,238	1,746	23
Calvert Co.	1,734	572	190	3
Caroline Co.	759	250	83	1
Carroll Co.	1,802	594	198	3
Cecil Co.	2,827	933	310	4
Charles Co.	4,023	1,327	442	6
Dorchester Co.	1,083	357	119	2
Frederick Co.	2,718	896	299	4
Garrett Co.	692	228	76	1
Harford Co.	3,014	994	331	4
Howard Co.	3,122	1,030	343	5
Kent Co.	389	128	42	0.5
Montgomery Co.	12,835	4,235	1,411	19
Prince George's Co.	28,602	9,439	3,146	42
Queen Anne's Co.	1,124	371	123	2
St. Mary's Co.	2,297	758	252	3
Somerset Co.	478	158	53	1
Talbot Co.	832	274	91	1
Washington Co.	2,861	944	314	4
Wicomico Co.	3,624	1,196	398	5
Worcester Co.	3,469	1,145	381	5
Total Statewide	143,171	47,240	--	204

It is important to keep in mind that several of the jurisdictions listed have pretrial services programs and already have staffing levels that meet or exceed the estimates. While many of these staff are currently assigned to risk assessment and defendant investigation duties, if Maryland were to implement an interview-less statewide pretrial risk assessment tool, many of these staff could be reassigned to supervision duties. Additionally, one idea that has been discussed by Maryland officials—to have current court commissioners re-designated as pretrial program staff with the authority to

release—should, if implemented, provide a pool of easily available resources to help in filling these supervision staff slots.

Moreover, many jurisdictions around the country, particularly less-populated counties with small caseloads, have drawn on the existing resources of the state Probation and Parole for pretrial supervision officers. Since the Maryland Division of Probation and Parole is under the Maryland Department of Public Safety and Correctional Services, which also runs Baltimore City Pretrial Services, this may be another opportunity.

There would also be costs associated with maintaining an information system capable of providing good data on program operations and outcomes. The Department of Public Safety and Correctional Services already runs the Offender Case Management System for Probation and Parole, as well as for Baltimore City Pretrial Services. There may be an opportunity to expand that system to pretrial throughout the state.

ⁱ Research has made clear that supervising low-risk defendants does nothing to improve their already high success rates. It only leads to technical violations of unnecessary pretrial release conditions.

ⁱⁱ The data on the annual number of criminal case filings are from 2013.