

BALTIMORE BEHIND BARS:

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

After almost a year of conducting interviews, touring facilities and analyzing data, the Justice Policy Institute completed *Baltimore Behind Bars*, a report on the Baltimore criminal justice system, its state-run jail and the reasons for the jail's overpopulation.

As the State of Maryland has plans to develop two additional facilities for the Baltimore jail complex, Baltimore residents should be concerned about the “build it and they will come” maxim that often accompanies jail construction. Regardless of the State's intentions, the addition of jail beds can lead to greater numbers of people being incarcerated, most of whom have yet to be convicted; therefore, it is crucial to understand the possible ramifications of the State's planned actions and how they can best be avoided. As one of the oldest and largest jails in the country, the Baltimore jail has long

struggled with a number of issues, including poor conditions and a lack of rehabilitative programming. Should new facilities be built, hopefully these problems, and those enumerated in the report, will be addressed, especially for the women and children who will be housed there. But the addition of these facilities will not solve what is the most important underlying problem at the jail: too many people are locked up. This over-incarceration costs Maryland taxpayers too much money and has a negative impact on the Baltimore community, which already has the shameful distinction of having the largest

KEY FINDINGS



percentage of its population in jail of any of the 20 largest jail jurisdictions in the nation. All of the criminal justice agencies operating in Baltimore contribute to this problem, and all of them can play a role in the solution.

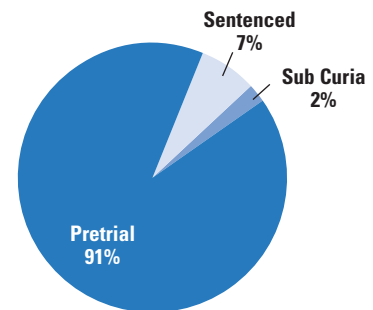
Nearly 4,000 people are currently incarcerated at the Baltimore jail.

The reasons for people's pretrial detention vary from detainers and judges not offering bail to an inability to post bail when offered. The transfer of the Baltimore jail system to the State and the opening of the Baltimore Central Booking and Intake Center had significant impacts on the number of people arrested, booked and held in the jail facilities. This system also lends itself to frequent overcrowding of the jail despite recent efforts at streamlining the court process, including practices such as early resolution courts and diversion programs. As the State of Maryland pays for and manages the jail, not Baltimore City, the intergovernmental dynamics and distribution of power and resources also contribute to the large number of people in the jail.

Nine out of 10 people in the Baltimore jail are pretrial, meaning they have not been convicted of the current offense.

Unlike most jails around the country, in which about 63 percent of people are pretrial and the rest are serving short sentences of one year or less, the Baltimore jail is a true pretrial facility because of the status of the people incarcerated. In Baltimore, unlike in other jurisdictions, people who are sentenced to

9 out of 10 people in the Baltimore jail are awaiting trial



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

incarceration for more than six months are transferred to state prisons to serve their time. This means that in addition to Baltimore being one of the largest jails in the country, it also houses one of the highest numbers of people who are pretrial. Research shows that people who are held pretrial are more likely to receive a sentence of incarceration than those released to await trial in the community; the high number of people in the jail pretrial can lead to higher numbers of people in prison in Maryland.

People are staying in the jail while awaiting trial for too long. Over the last few years the number of people arrested in Baltimore has dropped significantly, especially for quality of life offenses. During this time, Baltimore also experienced a drop in crime; however, the number of people in jail at any given time has been relatively constant. This is likely due to the increase in the average length of stay of people who are booked into the jail. The average length of stay has increased five days over the last five years, up to 38 days per person. An extra five days, for an average of 4,000 people in the jail per day, translates to millions of wasted tax dollars. With bail amounts rising and an overreliance on commercial money bail for pretrial release, many people remain in jail until their court date, which can be a month or typically longer after their arrest. Postponements in court cases also have a significant impact on the time spent in pretrial incarceration for those who are not released to the community.

Most people are arrested and incarcerated for nonviolent offenses, including drug offenses and violations of probation. Less than a third of the people in the Baltimore jail were arrested for a violent offense. Around the country, increased use of pretrial services and supervision is allowing people who are a low-risk for either failing to appear in court or being a threat to public safety to remain in their

communities instead of being held in jail until trial. Also, some communities are using other options, such as citations, to address low-level offenses. The number of people arrested and incarcerated for nonviolent offenses has a significant impact on the jail population and is a strain on law enforcement resources.

The majority of people in the Baltimore jail are men and from communities of color. Most of the people in the jail are men (86 percent) and around 100 children being tried as adults are held in detention. Despite making up only 64 percent of Baltimore residents, African Americans comprise 89 percent of the people held in the jail. Racial disparities in the Baltimore criminal justice system reflect those around the country, which have had numerous negative consequences for individuals, families and communities.

Research shows a significant impact of incarceration on the criminal justice system and the community. JPI gathered information about Baltimore specifically, as well as jails nationally, to develop the following findings:

Pretrial detention has negative consequences for people held in jails. When people are removed from their community to be held pretrial they can lose the connection to the community and their families breaking down family structure and community supports. Communities of color are particularly impacted by pretrial detention as people of color are disproportionately arrested and detained. In addition, people with less income or resources are more likely to be incarcerated pretrial because they are less likely to have funds to post bail. Furthermore, many people lose their jobs while incarcerated and others lose federal benefits such as Social Security and Medicaid, which they must reapply for upon release.

Baltimore does not provide adequate re-entry services. People in Baltimore face specific and often significant needs when they are released from the jail. Surveys of people leaving the jail have documented these needs which include housing and employment assistance, drug and alcohol abuse treatment and mental health services. All of these factors are related to a person’s likelihood of success after leaving a correctional facility, as well as their risk of return to jail. While the jail is working to remedy some of these issues, current needs are largely unmet while people are in the jail or when they get out, which can contribute to high return rates of people to jail. The responsibility of providing re-entry services falls on both the community and the jail.

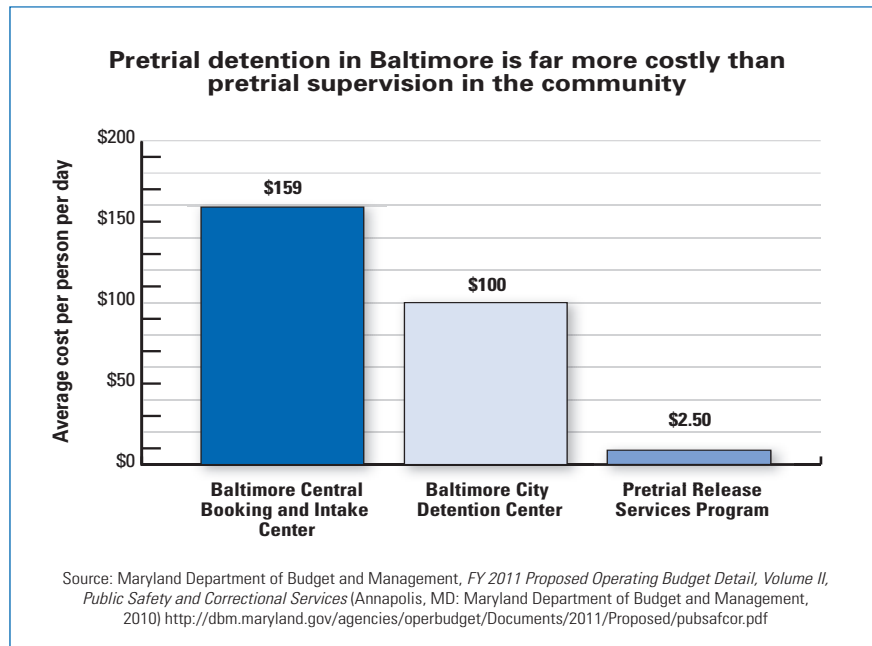
Maryland wastes valuable public resources by choosing incarceration over other alternatives. Pretrial detention in the Baltimore jail costs about 60 times as much per person as pretrial supervision in the community. Many of the people currently detained can be released to community supervision while awaiting trial. Pretrial community supervision is shown to have positive outcomes; only 4 percent of

people on pretrial supervision in Baltimore are arrested for a new offense while awaiting trial and only 6 percent miss their court dates—lower than the national average.

Money bail impacts the number of people held in the Baltimore jail awaiting trial. Less than 10 percent of the people incarcerated in the jail were offered “low” bail amounts of \$5,000 or less, and judges appear to be setting higher bail amounts now than they were just five years ago. Bail discriminates against people of lower income and makes it nearly impossible for them to be released pretrial to stay in the community with their families. As it is currently used, bail is not necessarily based on risk to community safety, and commercial bonding companies do not provide supervision or services for people for whom they post bond.

Case postponements keep people in the jail pretrial for months or even years. Court dates are typically set for 30 days after an arrest for minor offenses and up to 120 days for more serious ones, but postponements lengthen the time people stay

in jail and are an undue burden on taxpayers. Court postponements can occur for a number of different reasons, including lawyers needing more time to prepare or even bad weather. Often cases are postponed an additional 30 to 60 days but sometimes for longer. For people who are forced to remain incarcerated awaiting their day in



court, these postponements can have serious negative effects including straining relationships in the community and time away from employment. As the average length of stay of people in the jail increases, so do crowding and costs.

Overcrowding at the jail contributes to unsanitary and unsafe living conditions that may be a factor in recidivism rates. The Baltimore jail is frequently at or above capacity which can have a negative effect on the jail environment. Overcrowding can restrict program availability and has negative consequences on people’s behavior both inside and outside of correctional facilities. This in turn can contribute to a cycle of re-incarceration.

Baltimore City and Maryland are at a crucial point with their correctional population. Continuing to promote policies that incarcerate people who are charged with nonviolent offenses and who are classified as low risk crowds the jail and has a negative impact on individuals, families and communities. Holding people for extended periods of time, sometimes years, while they await trial only serves to increase crowding and costs. The unsavory conditions in the jail are well documented, but building two new facilities to alleviate crowding and potentially provide more services is not a long term solution to the real problems facing Baltimore and the people who come into contact with the criminal justice system. Baltimore should be looking at innovative and evidence-based solutions to reducing the number of people arrested and detained in the jail, particularly people who are being held pretrial and have yet to be convicted on the current offense. Rather than investing in more beds, Baltimore should reduce the number of people entering and staying in the jail and Maryland should improve the conditions and services inside the jail.

The Justice Policy Institute, through interviews with experts and stakeholders and research on effective programs and policies from other localities, offers the following solutions for reducing the number of people in the Baltimore jail, streamlining pretrial processes and improving the way people are treated by the criminal justice system. All of these solutions will not only reduce the number of people in the jail but also save money and improve public safety in Baltimore and the state of Maryland.

Reform arrest, enforcement and diversion practices

- *Police should provide citations rather than arrests for certain offenses.* Working with the Baltimore City Police Department, Baltimore officials and policymakers should determine which policies and practices are causing more people to go to jail for offenses that do not create a public safety threat.
- *The courts should divert people with mental health and drug treatment needs to the public health system and community-based treatment.* Research shows that people with mental health or substance abuse problems have better outcomes when they receive treatment in the community and that incarceration can exacerbate these issues. Treatment is also more cost-effective than incarceration.

Expand pretrial release and reform bail practices

- *The courts should set up a mechanism for screening and recommending release on personal recognizance for people who are low risk, the same way recommendations are made on people who are high risk.* The State’s Attorney’s

Office (SAO) sometimes recommends to the District Court Commissioner that they set a certain bail amount or to refuse bail when a person has a violent or serious charge. Using this same methodology, the SAO and the courts could make recommendations for people who are very low-risk or have low-level charges for pretrial release. Identifying more people at the outset who could be released will reduce the number of people in the jail and reduce the workload of pretrial investigators before bail review.

- ***The courts should reform the bail system and use other methods of ensuring people return to court.*** Baltimore should expand its options for ensuring appearances in court beyond relying primarily on money bail. Money bail discriminates against people of lower income and the use of commercial bonding companies takes the release decision-making power away from judges and puts it into the hands of a for-profit industry with little accountability. Fully utilizing pretrial release supervision and diversion programs can provide appropriate services and supervision while a person awaits trial.
- ***The courts should increase the number of people supervised by the Pretrial Release Supervision Program and the State should increase funding for this program.*** Pretrial community supervision is both less expensive and more effective than pretrial detention. Pretrial agents report the outcomes of the supervision to judges on a person's court date so the judge can make an educated decision about a person's ability to remain in the community, which may lead to fewer prison sentences and less overall incarceration in Maryland.

Update court processes

- ***The courts should set up an automated calling system to remind people to show up to court.*** Some states are experimenting with options like telephone notifications for court dates, similar to the method doctors' offices use, and finding that these programs reduce the number of "failure to appears" and save money in the long run.
- ***The courts should reduce the length of time between arrest and court date and address the problem of postponements.*** While there are options available to fast-track cases, like Early Resolution Courts, these options frequently require a guilty plea, which carries a problematic set of collateral consequences aside from spending a month or two in jail. Baltimore's courts should develop a solution to the extended length of time between arrest and court, especially as it relates to people who are detained pretrial.
- ***The courts should expand their hours and increase the frequency of collateral dockets.*** Other cities have instituted night and weekend courts to reduce court backlogs. The courts in Baltimore should analyze their processes and data and learn more about what is working to reduce postponements in other communities. In addition, increasing the frequency of collateral dockets to even twice per month instead of once could greatly reduce the number of people held on technical violations of probation, like missing appointments and failing drug tests. With over 500 people currently detained for violations of probation, increasing the court's capacity to resolve these cases could significantly reduce crowding in the jail.

Provide more, and better, services

- *Baltimore should make substance abuse and mental health treatment more accessible in the community before people are involved in the criminal justice system.* Providing treatment in the jail can be an effective way to help people who have substance abuse or mental health issues, but research shows that it is not as effective as treating people in the community. Services for people in the community are also less expensive than those in the jail.
- *The jail should help ensure a continuation of care upon release, starting with medication and referrals for treatment if needed.* The jail is required to provide 30 days of medication to people who need it upon their release, but the care should not stop here. People with mental or physical illnesses may need further services that will help them have better outcomes in the community. The jail should assist them with referrals to treatment as appropriate and help people leaving the jail to fill out forms to apply or re-apply for benefits such as Medicaid and Social Security, all of which can be completed before a person is released to and can help eliminate gaps in treatment.
- *The jail should establish set times of release so people can make the appropriate preparations.* Currently people are released from the jail at varying times and from different locations at the jail. This can make it difficult for service providers in the community to set up times to target people who are leaving and offer services. It also makes it difficult for people to gather their personal items from the property room when they are released.

- *Baltimore and the jail should implement an office or full-time position dedicated to helping people who are re-entering the community after incarceration at the Baltimore jail.* People have basic needs upon release from jail often including housing, employment and treatment. A person or office both inside and outside the jail that is responsible for providing services and supports for people upon release would help ensure there was someone on the outside familiar with their circumstances and needs. Addressing the lack of services in Baltimore for people who are leaving the jail could significantly reduce the number of people returning to the jail.

Coordinate efforts and set goals

- *All criminal justice agencies should set a unified goal of reducing the number of people in the Baltimore jail.* The costs associated with high numbers of people in jail (monetary, individual life outcomes, families, public safety) fall on all Maryland residents and the benefits of reducing these numbers impact everyone as well. Setting a specific goal of reducing the number of people in the Baltimore jail by a certain amount, by a certain date and developing a realistic strategy to accomplish it, would increase the commitment of system stakeholders to enact change. In turn, this could have a positive impact on individuals, families and communities. Having a joint goal could lead to greater coordination amongst agencies and serve as a relationship building opportunity for the future so agencies continue to collaborate in a productive and mutually beneficial manner.

CONCLUSION



The Baltimore criminal justice system and the associated jail are unique in that it is the State of Maryland that owns and operates the jail. This dynamic and the resulting division of authority and responsibility often create challenges for coordination and cooperation between agencies. All criminal justice agencies in Baltimore, regardless of who is in charge, impact communities directly and it is in the best interests of both the city and the state to make policy choices that support people and families and improve public safety. As correctional facilities and criminal justice agencies incur significant costs and absorb funding that could be spent on positive social agencies like education and treatment, coordinating efforts to reduce the costs associated with these agencies by reducing the



number of people in jail can result in a number of benefits for Baltimore communities.

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

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