

An Assessment of Pretrial Outcomes & Data Capacity

FINAL REPORT

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MARYLAND CRIME RESEARCH
AND INNOVATION CENTER

About MCRIC

This document was prepared by the Maryland Crime Research and Innovation Center (MCRIC) at the University of Maryland. The Maryland Crime Research and Innovation Center engages in research to inform local, state, and national crime reduction strategy and policy through data-driven scholarship by conducting rigorous interdisciplinary basic and applied research, developing and evaluating innovative criminal justice strategies aimed at reducing crime in the state, leveraging cross-agency networks to foster data integration, and actively engaging in translational science through wide and varied dissemination of research. MCRIC leverages the broad range of expertise at the University of Maryland to engage in innovative research and interdisciplinary projects to enhance community safety and inform data-driven decision making. MCRIC works with a variety of partners including communities and community-based organizations, police and practitioners, lawmakers, academic peers, and industry, to promote data sharing, exchange knowledge and best practices, and develop new approaches.

About the Project

This is the final report for the Assessment of Pretrial Outcomes and Data Capacity project aimed at assessing the capacity of the Client Legal Utility Engine (CLUE) database for research and analysis. This research was funded by the Maryland Governor's Office of Crime Prevention, Youth, and Victim Services (GOCPYVS), Heroin Task Force - Day Reporting Centers program. The views and conclusions contained in this document are those of the authors and should not be interpreted as representing the views or policies of the GOCPYVS, or the University of Maryland.

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Summary

The primary aim of this project was to conduct research and data analysis to increase understanding of pretrial outcomes in Maryland. Bail is increasingly being recognized as an important focal point for criminal justice reform. The majority of individuals detained pretrial are accused of low-level, nonviolent offenses and pose little threat to public safety. The costs of detaining individuals pretrial are myriad, costing both governments and families upwards of \$13.6 billion per year.¹

The opportunity for bail reform has been recognized as a priority area in Maryland. Following recommendations from the 2014 Governor's Commission to Reform Maryland's Pretrial System, in 2017, Maryland's Court of Appeals adopted Rule 4-216.1 (hereafter "Rule") designed to "promote the release of defendants on their own recognizance or, when necessary, unsecured bond. Additional conditions should be imposed on release only if the need to ensure appearance at court proceedings, to protect the community, victims, witnesses, or any other person and to maintain the integrity of the judicial process is demonstrated by the circumstances of the individual case. Preference should be given to additional conditions without financial terms."

Despite the prioritization of bail reform as an area of focus, little is known about the outcomes of bail reform both in Maryland and nationally. Locally, data restrictions have limited the ability to perform systematic research within and across jurisdiction. Information is needed to support efforts in Maryland to effectively reduce the local detention population while protecting public safety.

The Client Legal Utility Engine (CLUE) database offer one potential source to advance understanding of crime and reform efforts such as pretrial reforms in Maryland. This report summarizes our effort to validate the CLUE data to understand its strengths and limitations for data analysis, explore its utility by conducting an exploratory analysis of pretrial outcomes and recidivism in Baltimore City and Prince George's County - the two largest jurisdictions in Maryland - and to develop data documentation to foster future research efforts and maximize the use of the CLUE dataset.

We note that further quality assurance is required of the CLUE database, therefore we do not recommend that the descriptive results we present in this report be used to inform policy decisions.

Key Project Takeaways:

- The Client Legal Utility Engine (CLUE) data are an important source of criminal justice system data. The consistencies in patterns and trends between the CLUE data and independent sources of criminal justice statistics provide confidence in the external validity of the data as it pertains to two large jurisdictions in the state: Baltimore City and Prince George's County.
 - More detailed vetting including other jurisdictions is needed for greater confidence across the state.
- The CLUE data can be leveraged to examine data pre- and post-policy changes. For example, the current study's assessment of pretrial outcomes found variation in the trends before and after 2017 when

¹ Bernadette Rabuy, Pretrial detention costs \$13.6 billion each year. Prison Policy Institute (February 7, 2017).

Maryland adopted Rule 4-216.1, providing some indication of changes in court decision-making as a result of a court rule change affecting bail and pretrial detention.

- There are notable differences between Baltimore City and Prince George’s County in terms of bail decision-making processes such as the average bail amounts and hearing outcomes. These differences exist between two of the largest jurisdictions in the state and demonstrate important areas of difference that could extend to other unstudied jurisdictions.
 - It is necessary to examine jurisdictional differences in criminal justice practices to understand any statewide policy impacts or changes.

Though the CLUE dataset appears to be a powerful source of information on nearly the all jurisdictions in Maryland covering an extensive period of time, the manipulation and restructuring the data from its original relational form to an analytic framework is an involved and complicated process. Investment in these early forms of accessing and cleaning the CLUE data is necessary for future understanding of crime and court decision-making in the state of Maryland. We outline in the report a number of areas of inquiry that could be examined with these data in the future.

Introduction

Currently, Maryland does not have a statewide data resource that integrates all relevant information regarding crime and criminal justice across jurisdictions. Current data on crime and criminal justice outcomes, such as arrests, criminal history, convictions, sentencing, corrections, parole, probation, recidivism, calls for service, etc., are largely siloed and managed by different organizations both at the state- and county-level. Comprehensive crime and criminal justice data would facilitate information sharing, cross-jurisdictional comparisons, assessment of strategies and policies to successfully prevent and reduce crime and/ or limit the number of individuals who interact with and are held by the justice system.

To attempt to address this issue of cross-jurisdictional data, the current project explores the potential utility of the Client Legal Utility Engine (CLUE) data, which is a valuable and unique resource that could provide the state with an innovative tool for analysis of a variety of court decision-making processes, providing new insights and contributing to policy making and crime reduction strategies. To advance understanding of the strengths and limits of the CLUE data for informing understanding of crime in Maryland, this project engaged in a detailed exploration of pretrial bail and detention processes within the state's two largest jurisdictions: Baltimore City and Prince George's County.

In the following report, we first provide a brief outline the research on pretrial processing and the recent reform efforts in place to curtail the use of pretrial detention and high bail amounts that have contributed to large populations housed in county jail pretrial. This discussion provides context for the national conversation regarding pretrial processes. As part of this exploration, we focus on the state of Maryland, examining both the process of bail within the state and the reform efforts that have taken place over the prior decade or so.

Next, we develop an error profile of the CLUE database. While the CLUE data are extensive, they have not been carefully validated. The data consist of a multitude of separate tables that must be combined, and little is known about their accuracy and validity. To realize the potential return on investment in curating these data, we begin by discussing the CLUE data in its original form and the necessary steps taken to convert that data into analyzable data files. We then focus on the efforts taken to understand the CLUE data, the missing data issues we encountered, and the steps taken to vet the data against other independent sources of criminal justice statistics.

We then present preliminary, descriptive statistics on the state of bail processing in Baltimore City and Prince George's County. These exploratory analyses give us a better idea of how bail operates in these two jurisdictions, and how these processes have changed significantly since 2012, particularly after 2017. One potential source of the shift in bail processes from 2017 forward is the court rule change in Maryland in 2017, discussed in more detail below, which specified the use of monetary bail only if it was the "least onerous" condition of release. These analyses are an important first step in exploring bail and pretrial outcomes across the state of Maryland. We note that further quality assurance is required of the CLUE database, therefore we do not recommend that the descriptive results we present in this report be used to inform policy decisions.

Lastly, we describe our data documentation processes describing the data framework, table structures, linking procedures, and data cleaning practices related to the interpretation and future use of the data. Specifically, we discuss the steps we've taken to document our extensive efforts cleaning and coding the CLUE

data and discuss future directions to continue understanding and utilizing the CLUE data to answer important policy-related questions.

Bail and Pretrial Detention

It is recognized that throughout the criminal justice system, individuals face disadvantages based on extralegal characteristics at each step. Compared to other stages, the pretrial process is rarely discussed. However, the last decade has seen a rapid diffusion of changes to the pretrial system across the nation (Pretrial Justice Institute, 2020). Among all potential changes, bail is increasingly recognized as an important focal point for criminal justice reform. One of the main reasons for this focus is that the majority of individuals detained pretrial are accused of low-level, nonviolent offenses and pose little threat to public safety, yet the pretrial jail population remains high. For instance, in Maryland, the majority of the jail population in 2014 was composed of pretrial detainees (e.g., 85.79% of Baltimore City and 82.34% of Prince George County; Commission to Reform Maryland's Pretrial System, 2014).

A few existing studies have examined some of the many bail reform efforts that have taken place across the country in recent years (Pretrial Justice Institute, 2020). Although there are varying types of bail reform, these efforts typically focus on limiting the use of monetary bail for misdemeanors and some low-level felonies or introducing risk assessment tools into the bail decision-making process. The goal of these reform efforts is to limit the number of individuals subjected to pretrial detention who would otherwise appear for their day in court without posing a threat to public safety. Research has found consistent evidence of the negative impact of pretrial detainment on later criminal justice system outcomes (Kutateladze et al., 2014; Wooldredge et al., 2015). Furthermore, the costs of detaining individuals pretrial are myriad, costing both governments and families upwards of \$13.6 billion per year (Rabuy, 2017). Additionally, research has found racial and ethnic disparities in pretrial decisions (Demuth, 2003; Demuth & Steffensmeier, 2004; Schlesinger, 2007) and that inequalities in sentencing practices can be partially explained by racial differences in pretrial detention (Martinez, Peterson, & Omori, 2020; Omori & Peterson, 2020). For example, using data from Miami-Dade County, Martinez et al. (2020:848-9) find that "while bond amount increases pretrial detention time for all defendants, the effect of bond amount on detention time is larger for Black defendants, especially Black Latinxs."

Overview of Pretrial Reform in the U.S.

In the past few years, there has been a movement to reform pretrial processes across the country. Specifically, many states have begun to either abolish their cash bail system, consider one's ability to pay, or implement risk assessment programs in making pretrial decisions. While states tend to be driven by the same goal, each has implemented different versions of new laws and outcomes have been mixed.

Most states that have reformed their pretrial processes have implemented policies that either abolished or reduced the use of cash bail. In 2017, New Jersey eliminated bail by creating a presumption that individuals charged with a majority of offenses would be released, and decisions should be made using a risk-based decision making-framework. Studies examining these changes found uneven patterns of abolishing cash bail, and prosecutors typically departed from this rule or at least attempted to add additional supervision to an individual's bail (Rengifo, Flores & Jackson, 2020). Similarly, in 2018, Philadelphia implemented no cash bail for nearly $\frac{2}{3}$ of cases filed including approximately 25 low-level offenses. However, this bill was discretionary and judges or magistrates could set bail if they chose. Despite this, research shows that release on own recognizance (ROR) increased by 22%, and the proportion of defendants staying one night in jail decreased by

25%. Furthermore, studies also emphasized that there was no change in the number of failures to appear or the recidivism rate after abolishing cash bail (Ouss & Stevenson, 2019). Moreover, in 2019, New York State (NYS) abolished cash bonds for misdemeanors. Studies found that pretrial jail populations decreased and that fewer defendants charged with low-level crimes were admitted following the implementation of the 2019 NYS Bail Reform. However, while the overall population of the jail decreased, racial disparities increased as the non-Hispanic White population decreased significantly more than the Black population (Kim, Hood & Connors, 2021).

Differentiating from the movement towards the abolishment of cash bail, in 2018, Georgia implemented a law that required judges to evaluate the financial ability of the defendant and their ability to pay within 48 hours. However, this law only applied to misdemeanors. While this new law led to around 48.65% of counties beginning to consider the defendant's ability to pay, there weren't any significant changes in the application of the law. This can be seen in the finding that only three counties had actually implemented systems that guaranteed the release of an indigent defendant within 48 hours of the arrest (Woods et al., 2020).

Some states also have implemented statewide risk assessment programs. For example, in 2011, the Kentucky legislature required the use of a risk assessment tool in pretrial and later started to use the Arnold Foundation's Public Safety Assessment (PSA) in 2013. Research shows that the PSA generally has predictive validity in assessing bail failure while still requiring ongoing improvements (DeMichele et al., 2020).

Collectively, these studies illustrate how bail reform can lead to a decrease in pretrial jail populations and an increase in release of recognizance; however, they also suggest discretionary reforms can lead to uneven patterns in application due to prosecutorial or judicial discretion.

Overview of Pretrial Reform in Maryland

Maryland has attempted to reform its pretrial bail and detention processes multiple times over the last few decades (see Appendix A for an abbreviated timeline of Maryland pretrial reform efforts). In 2003, the Chief Judge of the Maryland Court of Appeals created a Bail System Task Force, which resulted in the development of procedures that would ensure compliance with the current state of rules and regulations. In 2004, there was a change to the cash bail system in that defendants who were given a bail of \$2,500 or less could now post a bond with a cash deposit that was 10% of the full amount. During these years, other policies were also being introduced to reform the pretrial system. For example, bills regarding the right to representation for indigent defendants during initial appearance were initially proposed in 1998 and eventually passed in 2013. Shortly after, in 2014, the Governor created a Commission to Reform Maryland's Pretrial System with the main tasks of reviewing the pretrial system in Maryland, the approaches of other states, and the benefits of utilizing risk assessment tools.

Maryland's current bail system is the major focus of pretrial reform. It has long been debated among scholars, policymakers, and the public that changes in bail procedures are needed. In 2016, the Attorney General of Maryland, Brian Frosh, submitted a letter requesting that there be changes made to Maryland Rule 4-216, which outlines the guidelines for bail decisions, to ensure that defendants aren't being held in pretrial detention simply because they do not have the resources to post bail. The request was included in the Rules Committee's 192nd report, which recommended judges consider the defendant's ability to pay. This "least onerous" condition of the pretrial release rule went into effect July 1, 2017 and is discussed in more detail later in the report.

Furthermore, following the example of the national reforms mentioned above, Baltimore's State Attorney, Marilyn Mosby signed onto a bill in 2017 arguing against the use of cash bail (Fenton, 2017). Similarly, in 2019, Prince George's County's State's Attorney announced that her office would no longer be requesting cash bail (Bui, 2019). This significant shift in the bail system is meant to be uniform in Maryland, but due to the different societal conditions and jurisdiction characteristics, the actual practice is likely to vary across counties. To date, little is understood of the outcomes of pretrial reform efforts and whether the impacts vary across jurisdictions

Increased attention has also been placed on the potential of pretrial risk assessments in decision making. Pretrial decisions, whether to release or detain a defendant and the conditions of bail, have important consequences for both the defendant and the community. These decisions also carry the weight of procedural justice as the defendant is legally innocent pending trial and should receive the benefit of the doubt. Thus, after arrest, a risk assessment tool can be used to determine if an individual should be released or detained based on their risk of failing to appear in court and their possibility of committing a new crime. Currently, Maryland does not have a statewide, standardized risk assessment tool, but in recent years, more counties have embraced risk assessment programs as an effort to advance bail reform. In 2007, Montgomery County first created a risk assessment instrument based on county-level data and had the tool revalidated in 2019. A similar version of the risk assessment tool was implemented in St. Mary's County in 2015. Baltimore City also has a pretrial risk assessment program: Pretrial Release Services Program. This program offers general risk assessment, addictions evaluations, and violence initiative prevention screening.

Extant Research on Maryland Pretrial Reform Outcomes

Research on the pretrial process is relatively limited compared to sentencing, especially in Maryland. The extant data sources on pretrial decision-making in Maryland are limited and not consistent enough to allow for comparisons across jurisdictions. The few existing studies are mainly produced by non-governmental organizations and research institutions. Although these reports are relatively coarse in methodology and their conclusions should be interpreted with caution, several common patterns of reform impacts identified in these reports provide helpful guidance for future research. One of the reports examining these issues studied 2015 and 2017 data in Baltimore City and Prince George's County and found that after a bail reform effort, the percentage of cases released on their own recognizance increased, but the proportion held without bail increased even more (Blaumauer et al., 2018). This report also shows a 33% decrease in the jail population in the first year of implementation. The Black-White disparity in bail amounts, however, increased, which requires further research to fully understand if this disparity resulted from extralegal factors related to the reform. A *Study of Bail* (2018) report which focused on Prince George's County's reform results found evidence of a decline in the use of cash bail in Prince George's County after bail reform, but also an increase in the percentage of people held without bail.

These studies suggest that the 2017 Maryland law change was associated with decrease use of cash bail, but it is unclear whether the law change had broader impacts on pretrial detention patterns. More information is needed to support efforts in jurisdictions across the country and within Maryland to effectively reduce the local detention population while protecting public safety.

Client Legal Utility Engine (CLUE) Data

The Client Legal Utility Engine (CLUE) data include over 4.4 million District Court (including all Maryland jurisdictions with the exception of Anne Arundel) and 700,000 Circuit Court (Baltimore City, Prince George's and Montgomery County) cases scraped from Maryland Judiciary Case Search and other websites from the mid-1980s to 2021. The CLUE data were developed by the Maryland Volunteer Lawyers Service (MVLS) to increase ease in access to case records for legal system clients (e.g., expungement opportunities) and researchers (e.g., case processing). Whereas the CLUE website allows for easy retrieval of individual case data, leveraging the data for scientific analysis involves a number of steps to link, clean, and code variables. The database that we obtained from MLVS contained over 40 million rows of records.

For the current project, we set out to extract all the disparate data files from CLUE, clean and flatten the files to the case-level, and merge the files together to create a case-level analysis file capable of examining a variety of criminal court research questions, with a focus on understanding and analyzing pretrial bail and detention processes. Although this process would ideally cover every jurisdiction in the CLUE dataset, due to time and resource constraints, this project focused solely on Baltimore City and Prince George's County. Baltimore City and Prince George's County are two of the largest jurisdictions in Maryland and provide a useful starting point for examining the coverage of the CLUE data as well as any divergences between these two large jurisdictions. We describe the stages of extracting, cleaning, coding, merging and restricting the CLUE dataset to the final analysis files in Figure 1 and in the following sections.

Data Extraction

The first stage of creating the analysis file for the current study was to parse text fields scraped by MVLS. The original data contained a single table with some basic descriptive information about the case such as the time that case was scraped and the type of case (i.e. criminal, warrant, etc.) and a column labeled "misc" which contained all additional information such as charge and description information, event history information, and more detailed defendant information. We extracted all possible information from this "misc" variable into individual tables, resulting in about 20 tables for each year and each jurisdiction in addition to the original table containing the basic descriptive information.

Data Cleaning, Restructuring, & Merging

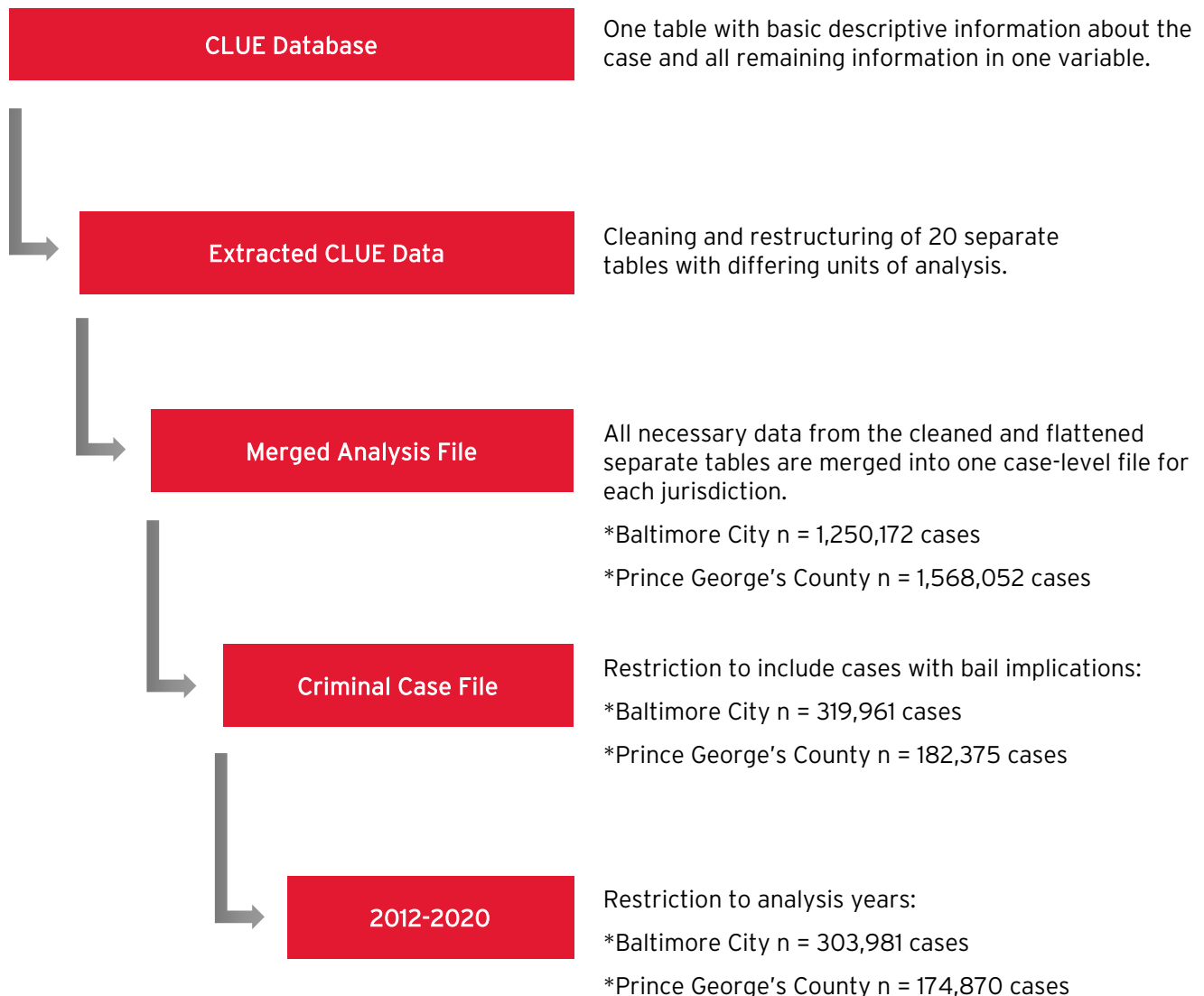
To be able to link information across individual data tables, each table had to first be cleaned and documented to identify the relevant information for the current study. Each table in its original form was at a different level of analysis. For example, the charge and description information table contained a row for every individual charge with a wide range of information related to that particular charge such as the charge description, the disposition for that particular charge, and any related sentencing information. In contrast, the bail table contained a row for every bail event in the data with information on the date of each bail event, the type of bail event, and any amounts or outcomes associated with that bail event.

It was first necessary to extract all relevant information from each table in its original form prior to restructuring and flattening the data to a charge level event. For example, we first had to identify the necessary variables from the bail table, such as the number of bail events and the outcome for each individual bail event

prior to flattening the multiple rows of bail events to just one row per court case. In each table, variables related to the pretrial process were identified and recoded to align with the purposes of the study. The resultant table was then restructured and flattened to the case-level, meaning each table contained just one row of information for each court case. Once each table was flattened, it could then be merged into the main analysis file at the case-level.

This process was repeated for both Baltimore City and Prince George’s County with only slight differences between the final analysis files for each jurisdiction. As a potential indicator of larger between-county differences for the remaining Maryland jurisdictions, there were some differences in the CLUE data between Baltimore City and Prince George’s County, namely, the absence of some disposition variables such as a “Verdict” variable and a total “SentencedTime” variable that were present in the Baltimore City data but not in the Prince George’s County data. These and similar difference in the datafiles will impact the extent to which cross-jurisdictional analyses could be completed in the future. For the current study, all bail-related information was the same between the two jurisdictions.

Figure 1. Flow Chart working from initial CLUE Database to Final Analysis File



Final Sample Section

Once all the necessary tables were cleaned, flattened and merged into the bail analysis file for each jurisdiction at the case-level, there were 1,250,172 cases in Baltimore City and 1,568,052 cases in Prince George's County. The next step was to restrict the data to just criminal cases using the "Case Type" variable from the CLUE data. The CLUE data captures a large swath of criminal and civil cases but for the current study, we are interested in criminal cases due to the primary use of monetary bail/bond in criminal court rather than civil court (see Appendix B for a summary of the Maryland Pretrial Process and delineation of cases across courts). This restriction limited the number of cases in the data with 319,961 cases in Baltimore City and 182,375 cases in Prince George's County.

The last restriction to the data as a whole was limiting the analyses to the 2012 through 2020 years. This timeframe was driven by two characteristics of the data. First, after reviewing the MLVS data, we suspected that a large number of cases prior to 2012 were missing, thus we chose 2012 as the beginning year of our analysis. Second, the data did contain cases for part of 2021, however, due to issues with Case Search, the data were not scraped after October of 2021, resulting in missing data for the last few months of that year as well as incomplete information on the cases that are present. For example, if a case was filed in September of 2021, the original filing would likely be captured by the CLUE data but it's likely that most case-related information such as charges and bail information would be missing in the data due to the lack of data scraping post-October. Thus, we made the decision to exclude 2021 from analyses due to the lack of complete case data for that year.

Project Deliverables

Development of an Error Profile of the CLUE Database

While the CLUE data are extensive, they have not been carefully validated. According to the MVLS, not all cases are included in the database and the data include many typos and coding errors. Moreover, cases that have been expunged from the system are excluded. On their website the MVLS warns users of the data that “you should always try to independently verify information or conclusions derived from this data set.”

To increase understanding of the CLUE data and how that data can be used in this and in future projects we vet the data against other independent sources of court statistics. This endeavor can give a sense of the quality of the data and to see how the data hold up in comparison against other sources. Unfortunately, there are limited sources of independent court statistics in Maryland, particularly in the District Court where the majority of criminal cases are heard and bail decisions are made. Because of this, we examined trends in the CLUE data with available public data sources, namely Maryland Judiciary Statistical Abstract Reports and Police Records. We also interrogated the various points of missing data to understand their source and impact on the dataset.

Statistical Abstracts

The first source, Statistical Abstract Reports, is produced annually by the Maryland Judiciary (see: <https://mdcourts.gov/publications/annualreports>). As stated in the 2020 Statistical Abstract, the annual report “... comprises trial and appellate court caseload data, providing information and insight regarding the volume, type, and disposition of cases handled by Maryland courts statewide” (Maryland Judiciary, 2020:3). The main information these abstracts produce that can be used to compare to the CLUE data is the number of criminal filings in a given year. We extracted the total number of criminal filings from each annual Statistical Abstracts and compared them to the total number of criminal filings in our CLUE dataset.

Below, Figures 2 and 3 display the number of District Court criminal filings produced by the CLUE dataset and by the Statistical Abstracts. To note, the Statistical Abstracts produce the number of filings by the fiscal year rather than the calendar year. We adjusted our CLUE dataset to also produce the number of filings by fiscal year for comparisons to the Statistical Abstracts, which required limiting the years of comparison to 2013 through 2020². As seen in the figures, there are consistent patterns across both the CLUE data and the Statistical Abstracts for Baltimore City, with a large decrease in criminal filings in Baltimore City’s District Courts from 2013 through 2020. There is less consistency in Prince George’s County (note the smaller y-axis for the Prince George’s County figure compared to the Baltimore City figure), but the two lines begin to parallel each other closely in 2018. Although the patterns demonstrate that the CLUE data are capturing similar processes to those in the Statistical Abstracts, it is important to note the scale of criminal court filings captured in the Statistical Abstracts is larger than in the CLUE data. Generally, the CLUE data produce between 3 and 12 thousand fewer cases per year in Baltimore City and between 1.5 and 12 thousand cases per year in Prince George’s County. On average, the CLUE data captures about 81% of the filings in the Statistical Abstracts for Baltimore City, and about 69% of the filings in Prince George’s County.

² The data we extracted from CLUE covers 2012 through 2021. The Maryland Judiciary has not yet published the court statistics for 2021, and using the fiscal year requires data from the last three calendar months of 2011 to produce fiscal year 2012 statistics, thus only allowing for comparison for the full fiscal years 2013 through 2020.

These differences between an independent source of Maryland court statistics and the CLUE data are of concern, particularly because the CLUE data should in theory be capturing all cases filed in the Maryland Judiciary. Interrogating each datafile we are able to identify with confidence one source that can explain some of the difference: fugitive warrants. The Statistical

Figure 2. Comparing CLUE Filings to Maryland Court Statistical Abstracts in Baltimore City

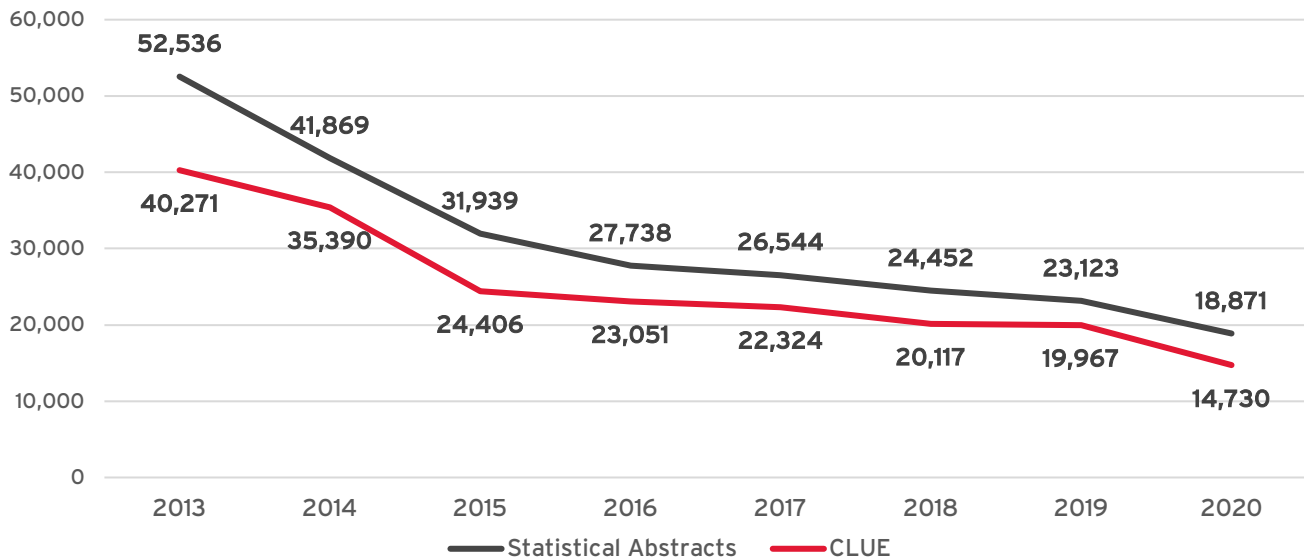
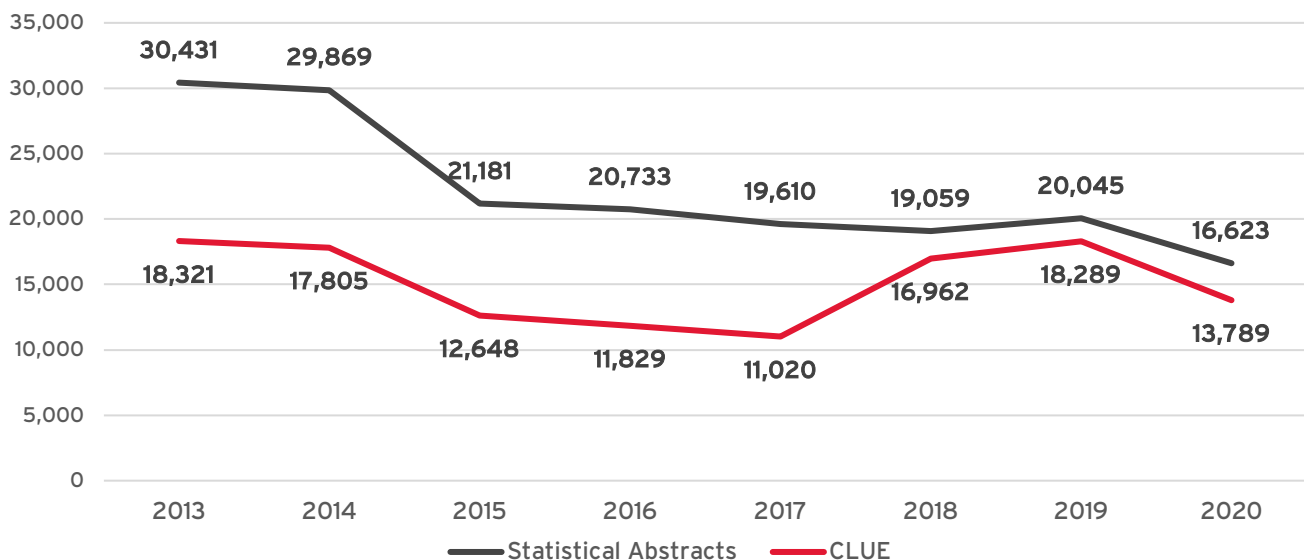


Figure 3. Comparing CLUE Filings to Maryland Court Statistical Abstracts in Prince George's County



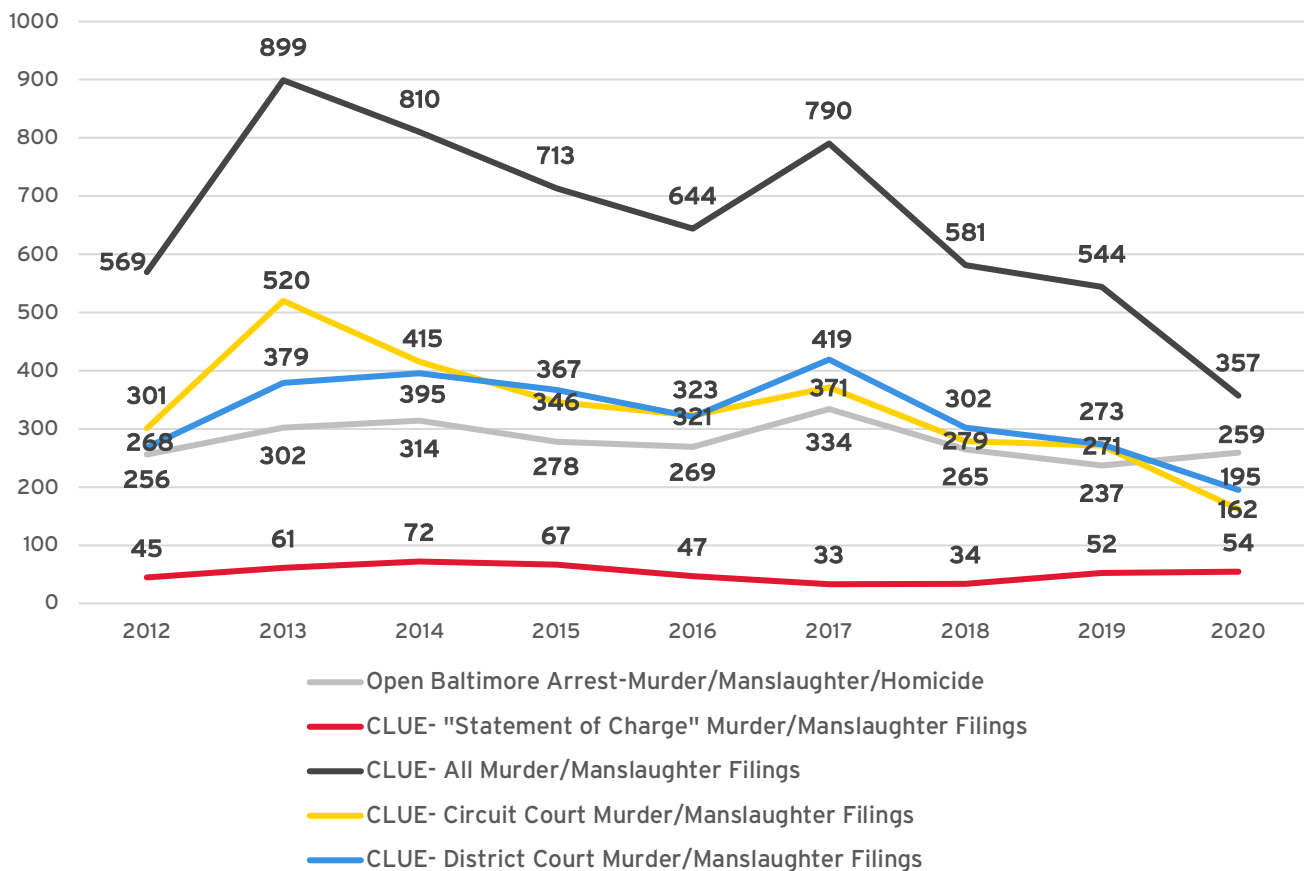
Abstracts note that their count of criminal filings includes fugitive warrants, a type of court filing that is identified as a separate category (not "criminal") in the CLUE data. Thus, any fugitive warrants would generate an additional criminal filing in the Statistical Abstracts but not in our CLUE analysis files. Because the Statistical Abstracts do not identify the number of fugitive warrants that are counted among the criminal filings, we are unable to assess the extent to which fugitive warrants account for the disparity across data sources. However, looking at fugitive warrants in the CLUE data tells us that this would only explain part of the disparity. For

instance, the total number of fugitive warrants for all years of the Baltimore City dataset was 2,464. Aside from the issue of fugitive warrants, there are clearly a large number of filings that are being captured by the Statistical Abstract that are not present in the CLUE data, due possibly to differing definitions of what constitutes a “criminal” case, or an issue with the originating Case Search scraping.

Police Records

To further investigate these discrepancies, other independent data sources were sought out to better understand the population of cases captured by the CLUE data. Another potential source of independent statistics that would be useful in vetting the CLUE data is police records. Although there is an expected amount of drop-off of cases between a police department issuing a citation or an arrest and the subsequent filing of charges in the court system, there should theoretically be less of a “drop-off” among more serious cases. For example, an arrest for murder or manslaughter would be expected to result in official charges in almost every case due to the seriousness of the offense and the resources aimed toward handling serious, violent crimes. To get a better idea of what the CLUE data are capturing, we compared cases involving “murder,” “manslaughter,” and “homicide” in the CLUE data to statistics from the Baltimore Police Department gathered through Open Baltimore. Open Baltimore is an official Baltimore Police Department maintained portal providing datasets published by Baltimore City containing publicly available versions of Part I Crime data and arrest data. Figure 4 displays the comparisons below. Due to limitations with our 2021 data, the graph displays the number of arrests and various samples of the CLUE data from calendar year 2012 to 2020.

Figure 4. Comparing CLUE Filings to Baltimore Police Department Arrests for Murder/Manslaughter Cases (sourced through Open Baltimore)



Because cases in Maryland first enter the District Court and are then transferred to Circuit Court if necessary (typically for the more serious felony offenses and for jury trials), the data currently double count cases that are transferred (i.e. there is a court filing in District Court and a court filing for that same case in Circuit Court if transferred). Thus, the grey line displaying all murder/manslaughter filings is much higher than all other lines for comparison. The orange line displays the “Statement of Charges” murder/manslaughter court filings from the CLUE data. When a case is filed, a “document type” is identified, noting how that filing entered the system, most often by a citation, a summons, a warrant, or a “statement of charges.” Our understanding is that the “statement of charges” cases identify cases that entered the system through an “on-view” arrest, meaning it originated through a police-citizen encounter that resulted in an arrest where a warrant was not already issued. Thus, the orange line displays the cases that entered the District Court via an on-view arrest. As can be seen, this type of filing significantly undercounts the number of murder/manslaughter cases that enter the system every year, due to the large number of murder/manslaughter court filings that originate as a warrant. The most interesting and helpful information is contained in the three lines identifying the number of arrests, the number of Circuit Court filings, and the number of District Court filings, all of which cluster closely together in the middle of the graph. These three lines follow similar trajectories across the time period, and cluster particularly closely post-2017. These results are particularly helpful for the evaluation of the CLUE data, as this lends credibility to the premise that the CLUE data is capturing the population of interest, at least as it pertains to criminal court filings for the most serious types of offenses.

Missing Data

Another facet of examining the CLUE data is understanding and addressing missing data issues. One of the first encounters with missing data pertained to a large proportion of missingness in the bail and pretrial processing variables. Our original expectation was that all District Court cases should have an initial bail hearing in front of a District Court Commissioner (see above in the section titled “A Profile of the Pretrial Process in Maryland”) as a first step after charges were filed. Even if an individual is immediately released on their own recognizance at this initial hearing, that event would show up in the bail data. However, we found a large proportion of District Court cases were missing the bail variables; according to the data, these cases did not have an initial hearing or a bail review hearing.

To investigate why these cases might not have followed the typical bail processing, we took 20 random case numbers and looked them up in Case Search and another source of Case Search scraped data, Case Explorer. Among this group, there was a pattern based on how the case entered the system, either through an arrest, citation, summons, or warrant. Using this information, we went back to the original data and extracted a variable identifying the “document type,” the method through which that case entered the system. In the figure below, the document types for all District Court criminal cases as well as the document type for just those District Court cases missing bail information are displayed. As seen in Figures 5 and 6 below, the majority of Baltimore City District Court criminal cases enter the system as a result of a statement of charges (54.26%) while 44.83% of cases in Prince George’s County enter the system as a result of a statement of charges.

The second set of results displays the document type for the District Court cases in our data that are missing bail information and shows that the vast majority of cases that do not produce bail data come into the system as a result of a citation, a summons, or a warrant in both Baltimore City and Prince George’s County. A very small proportion of cases without bail data entered the system as a result of an on-view arrest (a “statement of charges”), indicating that the bail processing system differs by how the case enters the system. These results indicate that filings resulting from an on-view arrest follow the typical initial hearing in front of a

District Court Commissioner and subsequent bail review hearing in front of a judge that is described above. One factor that might explain the patterns in document types and missing bail data is crime type, in that lower-level offenses that result in a citation or a summons do not require the full bail processing of the initial hearing and subsequent bail review hearing. Additionally, warrants may contribute to the missing bail data problem in that some of these are cases for which an individual failed to appear at court and a warrant is then issued, meaning that case may then bypass the typical pretrial processing.

These investigations into missing bail data and understanding how the document types contribute to differing patterns in the data, contributed to our decision to restrict the bail statistics discussed below to just cases that entered the system as a “statement of charges.”

Figure 5. Baltimore City District Court Document Types

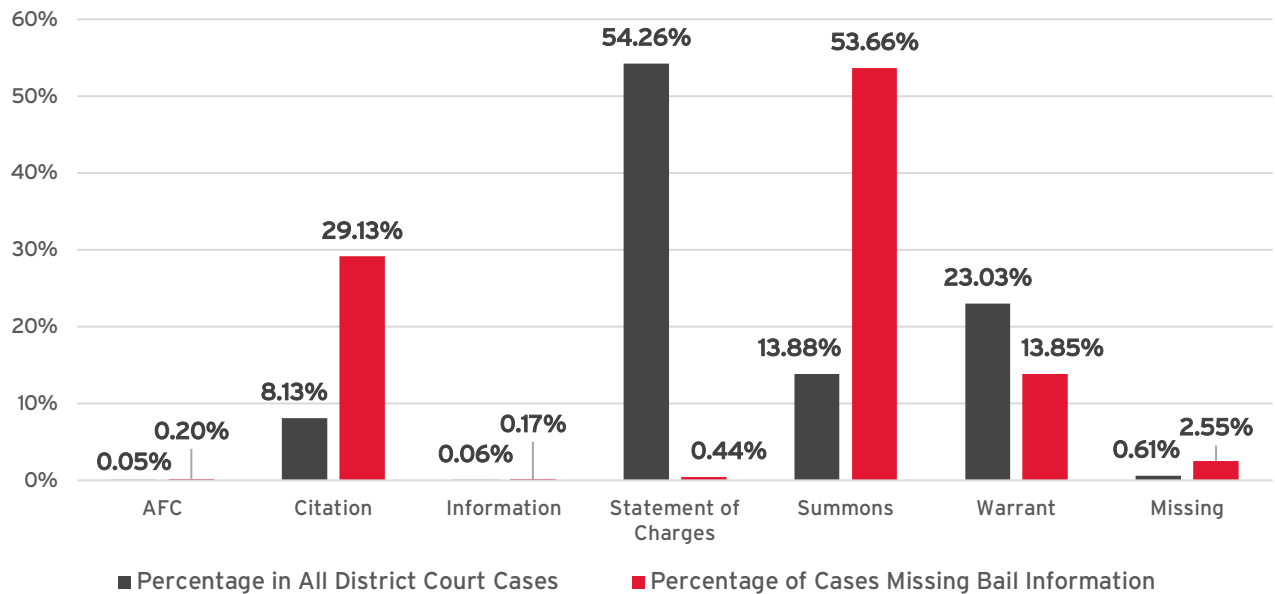
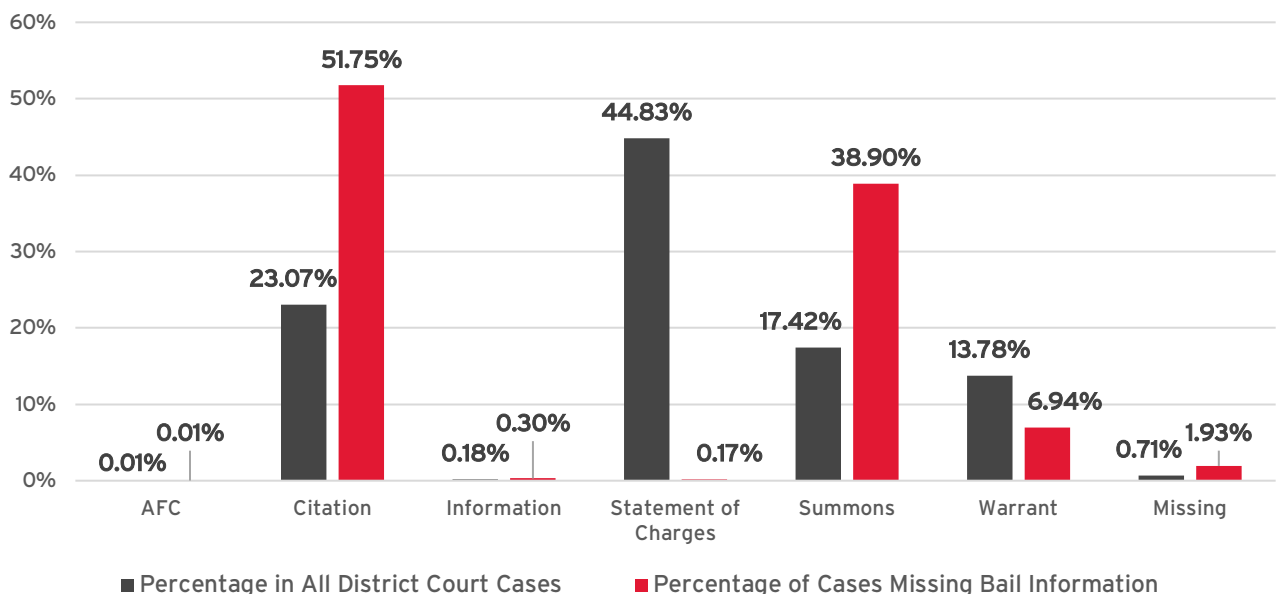


Figure 6. Prince George's County District Court Document Types

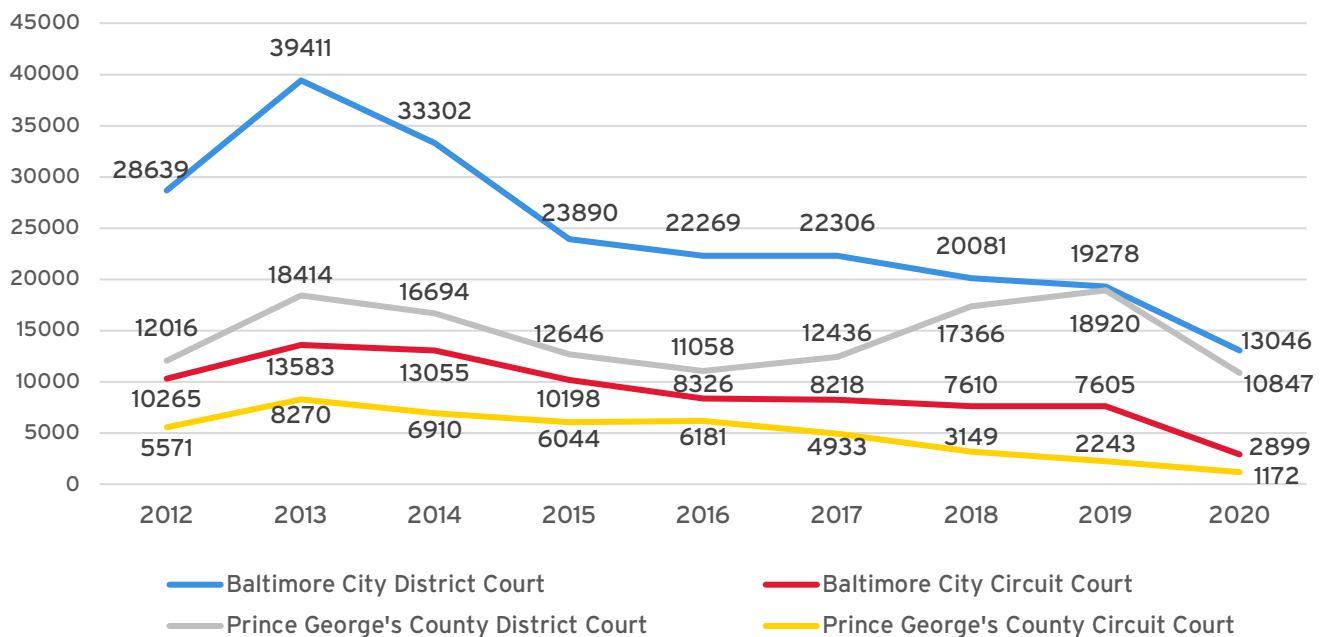


In our attempt to look up the 20 random case numbers missing bail data in both Case Search and Case Explorer, we encountered another missing data concern. There are multiple cases within our data for which we have criminal filings with basic information in the data but all information aside from what was present in the originating data main table is missing, including variables like defendant demographics and charging and disposition information. When we attempted to look these cases up on Case Search, a majority (16 of the 20, or 80%) did not return a Case Search entry. However, all cases returned a result in another source of Case Search scraped data, Case Explorer, indicating differences in these two sources of scraped Case Search information. It's unclear to us at this time why and when these cases would be removed from Case Search, unless they have been expunged from the system. This is another avenue of concern moving forward and requires further investigation to understand the scraping process and to fully understand and address the missing data in the CLUE dataset.

Exploratory Analysis of Pretrial Outcomes

The process of developing the raw CLUE data into the analysis files used to produce the descriptive statistics was described above. Figure 7 below displays the total number of criminal filings for both the District and Circuit Courts in Baltimore City and Prince George's County. As seen in this figure, overall numbers of criminal filings have generally decreased over the study period, with the decrease in the number of criminal filings particularly stark in Baltimore City which saw a drop of nearly two-thirds from a high of 39,411 criminal filings in 2013 down to 13,046 in 2020. Although Baltimore City demonstrated a steady decrease in criminal filings throughout the study period, Prince George's County experienced an uptick in criminal filings in the District Court between 2016 and 2019 but these cases fell in 2020.

Figure 7. Baltimore City and Prince George's County's Criminal Filings

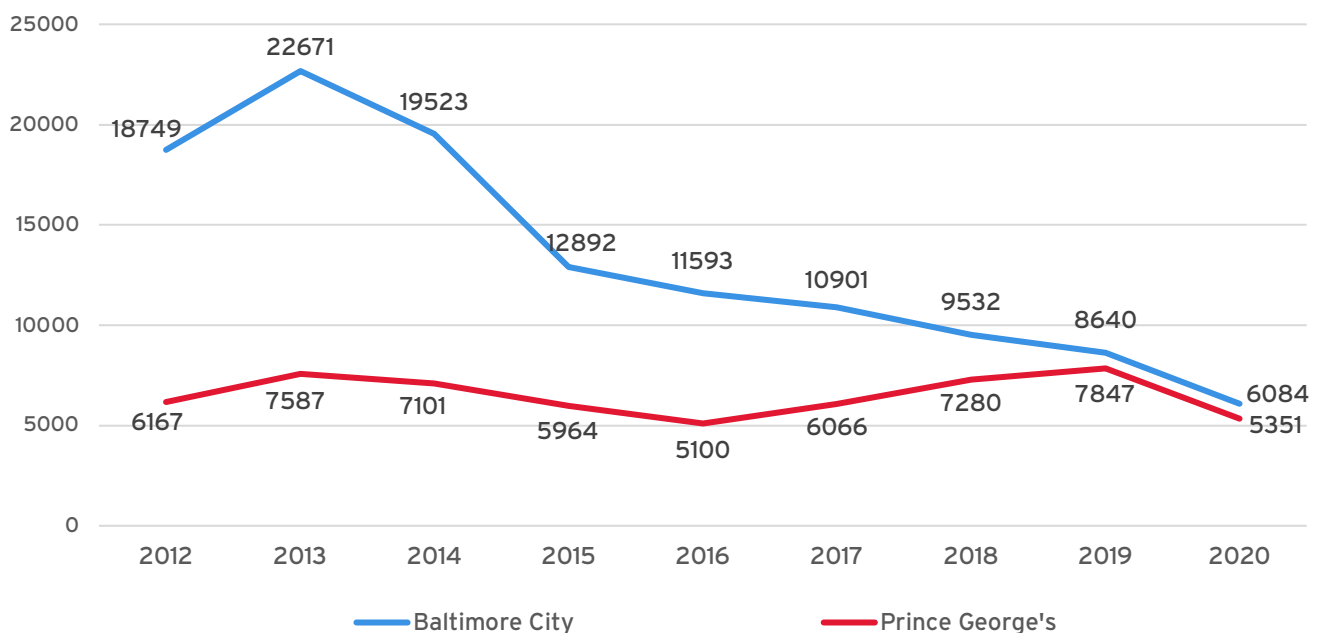


Additional sample restrictions to those described above were undertaken to examine pretrial bail processes. First, the analyses examining bail outcomes and amounts were restricted to District Court cases, namely because the bail processing described in Appendix B (A Profile of the Pretrial Process in Maryland) takes place within the District Court in front of District Court Commissioners and judges. Additionally, all bail

descriptive statistics produced below only examine “statement of charges” cases. As described in detail above, there were a large number of District Court cases missing bail information. These cases were largely a result of cases that entered the system through a citation, summons, or warrant and not as a result of an originating on-view arrest. Thus, the current descriptive statistics focus on “statement of charges” cases to allow for a better understanding of bail processing among cases that originally entered the system as the result of an arrest. This decision likely leads to the selection of more serious offenses, as offenses subject to arrest would generally be expected to be of a more serious nature than cases that entered the system as a citation or summons. However, due to the missing data issue, there is more confidence that these data contain a more complete picture of bail processing for this group of cases.

Figure 8 below shows the trend in the “statement of charges” cases over the study period. While the number of cases slightly increased and decreased over the time period in Prince George’s County, Baltimore City experienced a significant drop over the time period from a peak of 22,671 cases in 2013 to a low of 6,084 cases in 2020. The drop in Baltimore City was so significant that by the end of the study period the number of statement of charges cases in 2020 was similar to those in Prince George’s County.

Figure 8. Baltimore City and Prince George’s County’s Statement of Charges Cases



Initial Hearing and Bail Review Hearing Outcomes and Bail Amounts

The following descriptive statistics describe outcomes for the two main bail events that take place in the District Court: 1) the initial hearing in front of the District Court Commissioner (DCC), and 2) the subsequent bail review hearing in front of a District Court judge. The outcomes of interest include:

- the **outcome of the bail event**, indicating whether the defendant in that case received an outcome of held without bail (HWOB), held on bail (HDOB) or was released on their own recognizance (ROR) at either the initial hearing or the bail review hearing.
- the **amount of bail** set at either the initial hearing or the bail review.
- the **demographic composition of cases**.

Additional efforts were undertaken to examine the type of bail issued at either the initial hearing or the bail review hearing, such as if the bail was unsecured or secured with cash or property, but significant missing data issues in the bail type variables restricted our ability to produce descriptive statistics with confidence in the results and thus are not displayed here.

Figures 10 and 11 below display the initial hearing outcomes for both Baltimore City and Prince George’s County. Generally, the initial hearing can result in either an outcome of ‘held on bail’, in which the DCC sets a specific bail amount the defendant must pay in order to be released prior to the disposition of their case, ‘held without bail’, in which the DCC determines the defendant will be held pretrial without the chance of release until the final disposition of the case, and ‘release on own recognizance’ (ROR), in which the defendant is released from custody, with the expectation that they will return for their subsequent court dates on their own volition.

Figure 9. Baltimore City Initial Hearing Outcomes

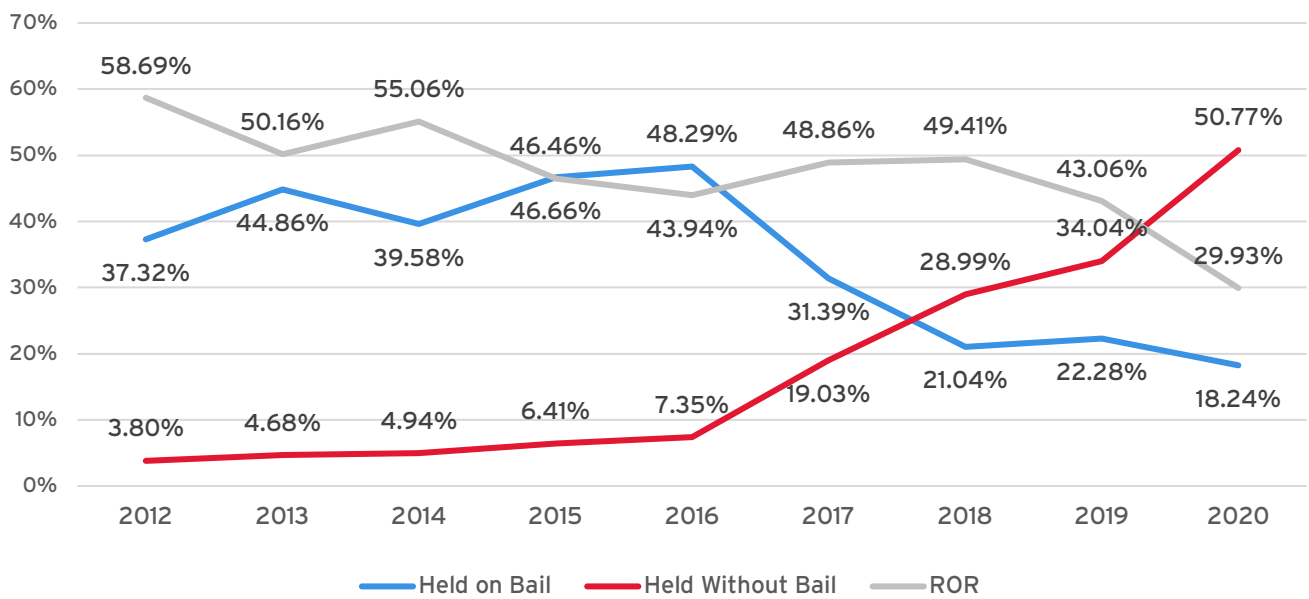
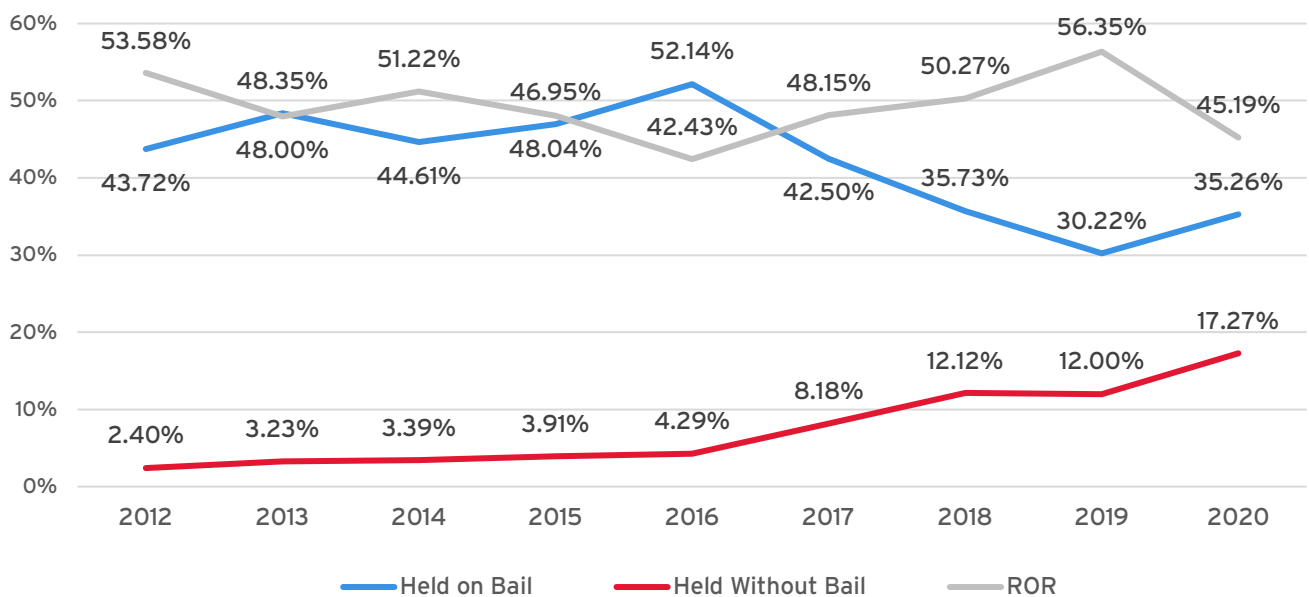


Figure 10. Prince George’s County Initial Hearing Outcomes

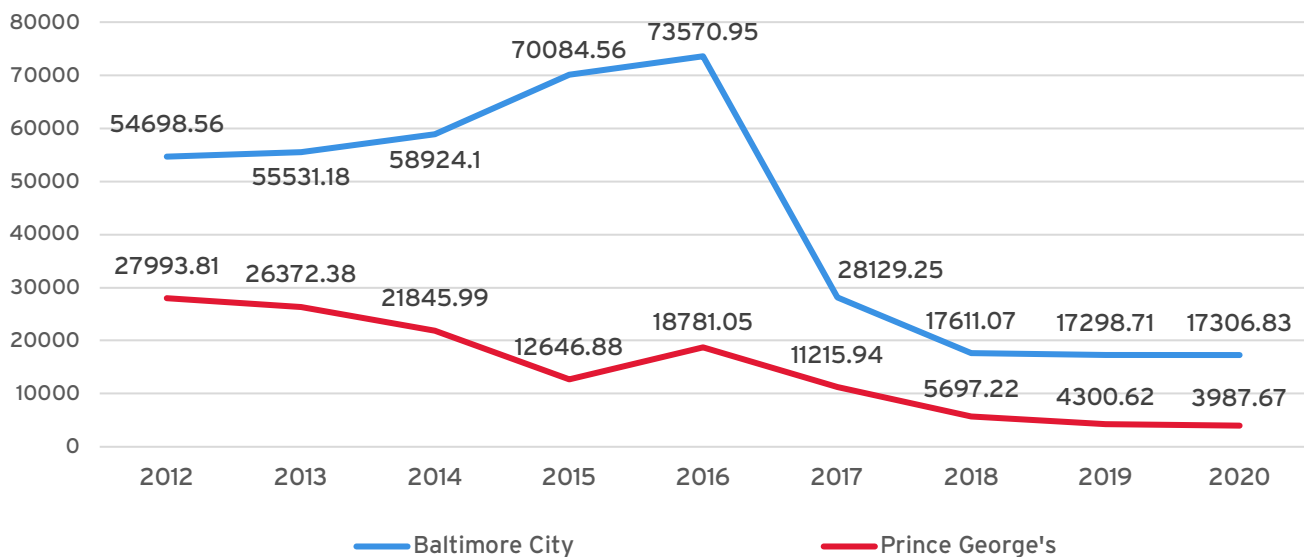


As can be seen in both figures 9 and 10, general trends in the percent of cases receiving each type of outcome shifted substantially post-2016. At the beginning of the study period, a low percentage of cases were held without bail in both counties (3.8% in Baltimore City and 2.4% in Prince George’s County). There was a slight increase in this percentage between 2012 and 2016; however, beginning in 2017, the percentage of cases held without bail at the initial hearing increased in both counties, exponentially so in Baltimore City. At the end of the study period 57.3% of cases in Baltimore City and 23.1% in Prince George’s County were held without bail at the initial hearing.

Along the same lines, beginning in 2017, the percentage of cases that were held on bail plummeted in both Baltimore City and Prince George’s County, potentially because of the court rule change in 2017 described above. Across the study period the percentage of cases assigned as held on bail dropped from 37.3% in 2012 to 16.6% in 2020 in Baltimore City and from 43.7% to 32.08% in Prince George’s County. The decrease in cases assigned bail post-2016 aligns with the court rule indicating that bail should be assigned only if it was the “least onerous” condition of release. However, these results are descriptive in nature, without controlling for any factors it is not possible at this point to attribute these changes in outcomes to any one factor, such as the court rule change.

Figure 11 below displays the changes in average bail amounts assigned to those held on bail at the initial hearing. At first glance, it is clear that bail amounts differ significantly across the two jurisdictions. Across the full study period the average bail amount for cases in Baltimore City was \$53,810.73 (median- \$10,000) compared to just \$15,892.34 (median-\$3,500) in Prince George’s County. Both jurisdictions display a decrease in average bail amounts over the study period, although the change is much larger for Baltimore City. In line with the court rule change in 2017, the average bail amount in Baltimore City plummeted from \$73,579.95 in 2016 to just \$28,129.25 in 2017. The average bail amount in Prince George’s County also dropped significantly from \$18,781.05 in 2016 to \$11,215.94 in 2017. These decreases appear at face value to indicate the success of the 2017 court rule change in limiting the amount of bail sought across the board. However, again it is necessary to note that these analyses are descriptive and in no way can any change seen here be attributed to one particular event.

Figure 11. Baltimore City and Prince George’s County Initial Hearing Average Bail Amounts for those Held on Bail



The next set of analyses describe the outcomes and average bail amounts from the bail review hearing in front of a District Court judge. As in the initial hearing, the bail review generally results in a bail outcome of held on bail, held without bail, or release on own recognizance. As can be seen in both Figures 12 and 13 below, the percentage of cases receiving a given outcome shifts significantly from the initial hearing outcomes described above. Due to the drop-off of cases between the initial hearing and the bail review hearing, namely that the majority of cases that received ROR at the initial hearing are subsequently released and do not have a bail review hearing, there are much higher rates of held without bail and held on bail relative to the initial hearing decision.

Figure 12. Baltimore City Bail Review Bail Outcomes

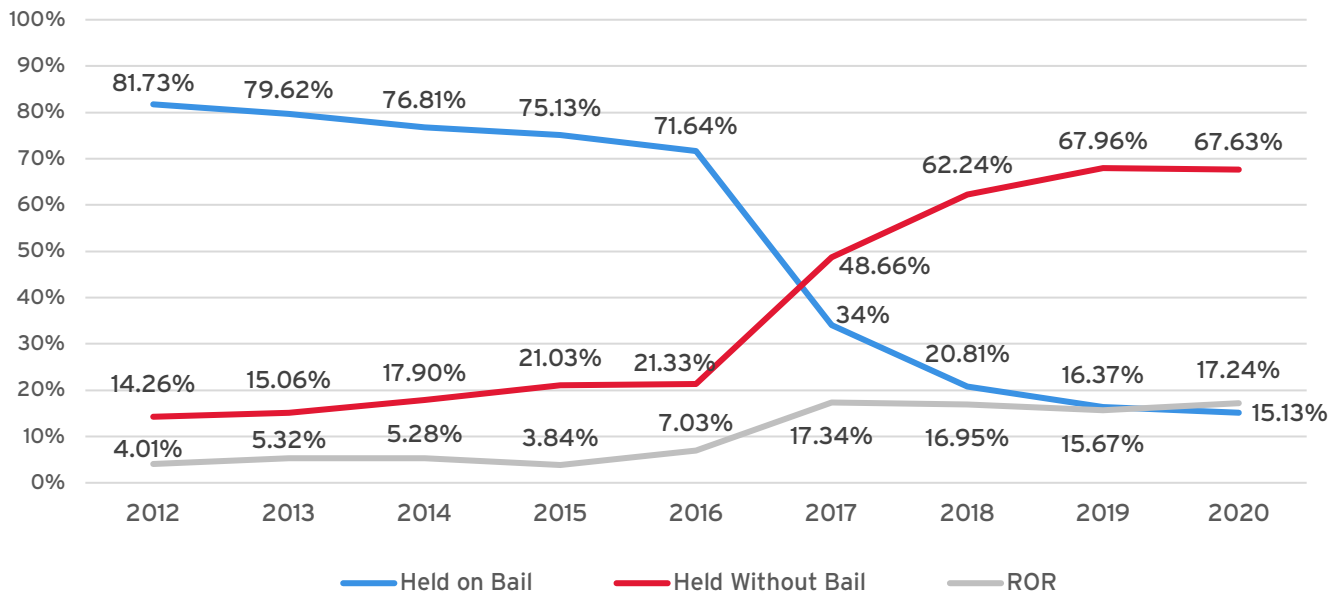
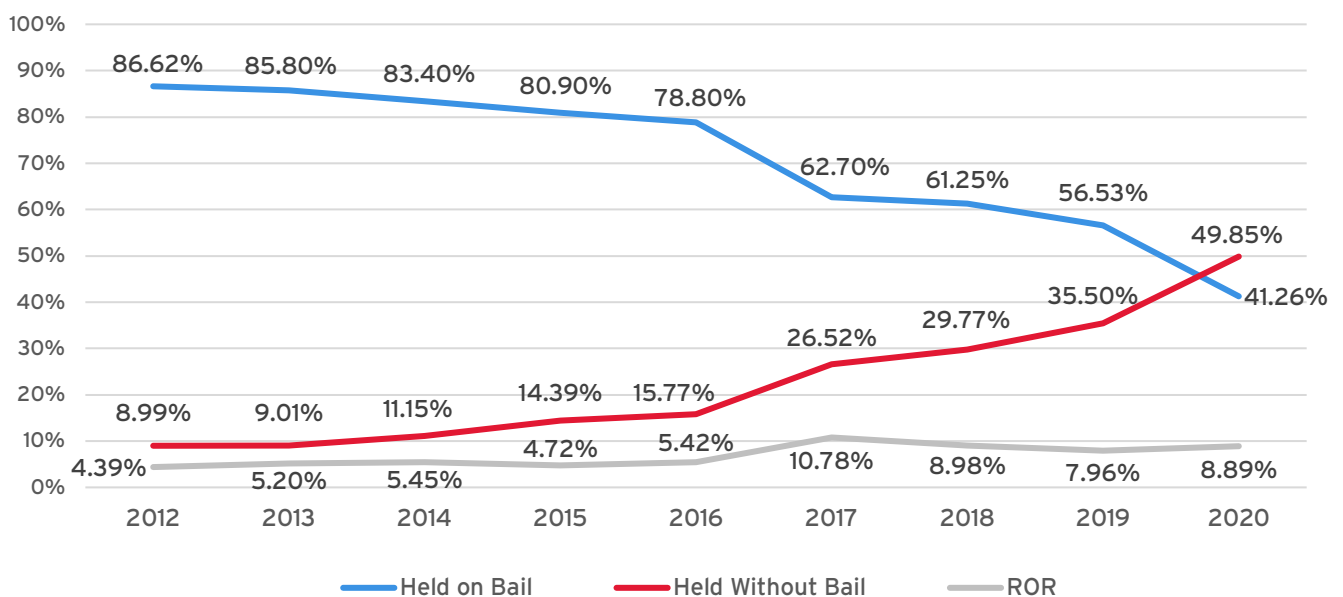


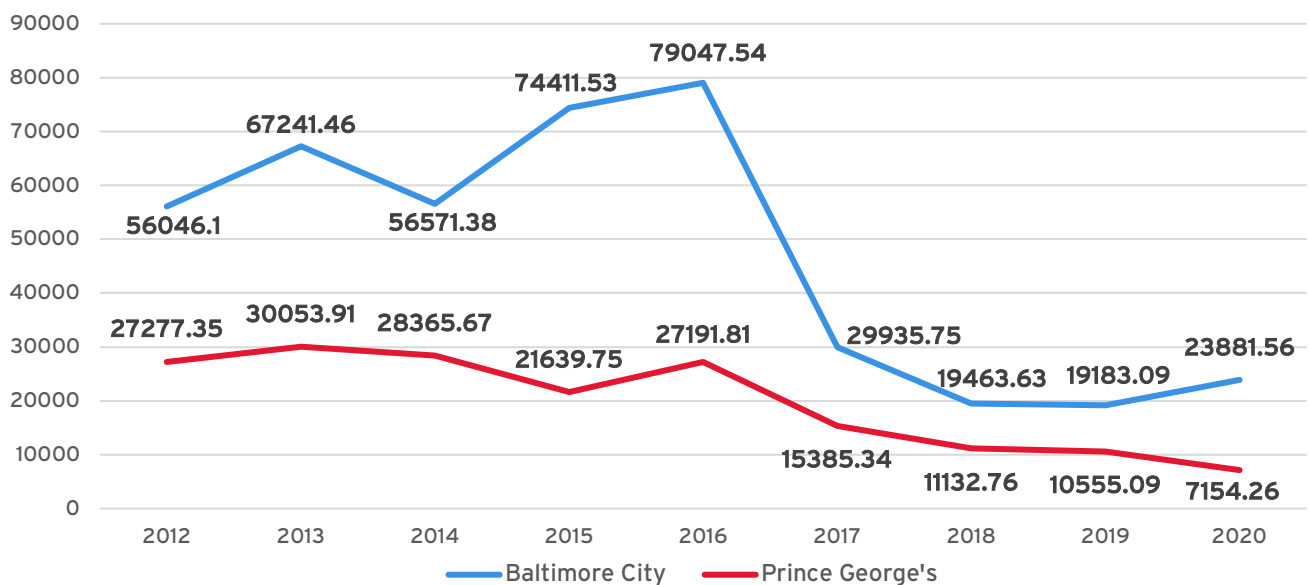
Figure 13. Prince George's County Bail Review Outcomes



The general trends in the percent of cases receiving each type of outcome shifted significantly after the court rule change in 2017, namely the cross-over of the percent of cases held without bail and those held on bail. After 2016, there is a stark increase in the percent of cases held without bail at the same time that the percent of cases held on bail fell. For example, in Baltimore City the percentage of cases held without bail at the bail review hearing in 2012 was 14.26% and at the end of the study period, in 2020 that percentage was 67.63%. The decrease in cases assigned bail and the increase in cases held without bail may be an unintended result of the 2017 court rule change. Limiting the use of monetary bail among more severe cases leaves judges with the option of release on own recognizance with the commiserate potential threat to public safety or the decision to hold that defendant in pretrial detention until their case is resolved. These results provide some indication that judges may be erring on the side of caution and using pretrial detention without the possibility of bail as a solution to concerns of releasing an individual who potentially poses a threat to public safety. However, these results are descriptive in nature, without controlling for any factors it is not possible to at this point attribute these changes in outcomes to any one factor, such as the court rule change.

Figure 14 below displays the average bail amounts for those held on bail at the bail review hearing in front of a District Court judge. One thing to note is the higher average amount of bail set at the bail review hearing compared to the initial hearing results reported above. At first glance, it is clear that bail amounts differ significantly across the two studied jurisdictions, particularly in the beginning of the study period. Across the full study period the average bail amount for cases in Baltimore City was \$60,044.76 (median- \$10,000) compared to just \$21,830.70 (median-\$5,000) in Prince George’s County. Both jurisdictions display a decrease in average bail amounts over the study period, although the change is much larger for Baltimore City. In line with the court rule change in 2017, the average bail amount at the bail review hearing in Baltimore City plummeted from \$79,047.54 in 2016 to just \$29,935.75 in 2017. The average bail amount in Prince George’s County also dropped substantially from \$27,191.81 in 2016 to \$15,385.34 in 2017. These decreases appear at face value to indicate the success of the 2017 court rule change in limiting the amount of bail sought across the board. However, again it is necessary to note that these analyses are descriptive and in no way can any change seen here be attributed to one particular event.

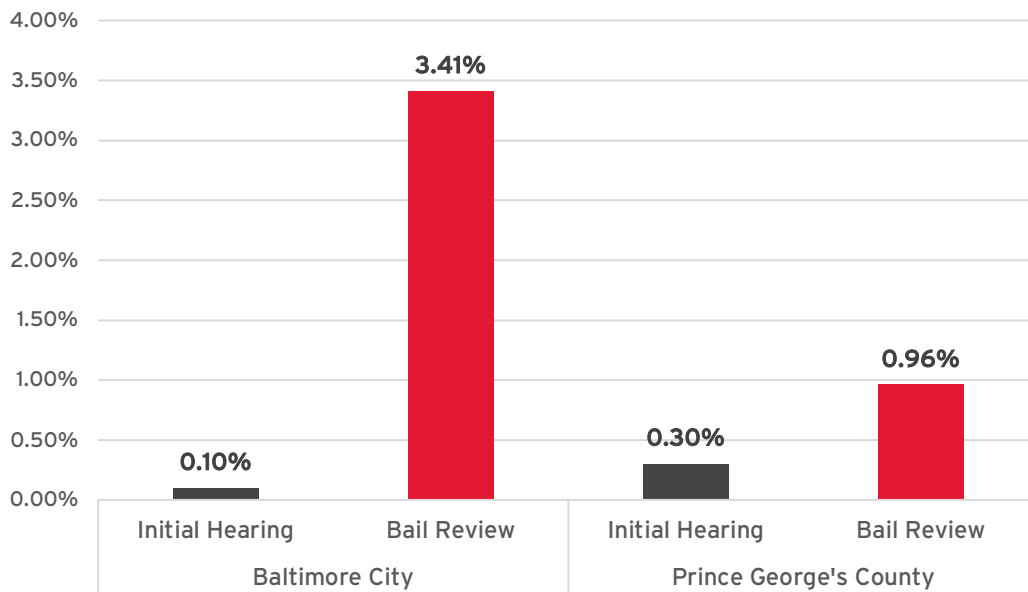
Figure 14. Baltimore City and Prince George’s County Bail Review Hearing Average Bail Amounts for those Held on Bail



Low Cash Bail

One of the proposed deliverables for the current study was investigating the proportion of bail amounts that constitute a “low cash bond” which we originally defined as less than \$500. However, in examining the bond amounts assigned at either the initial hearing or the bail review hearing, we observed that a very small proportion of bail amounts at either hearing fell within this definition of a “low cash bond.” As can be seen in Figure 15, only .1% of those held on bail at the initial hearing received a bail amount less than \$500, and just 3.41% of those held on bail at the bail review hearing received a bail amount less than \$500. Comparatively, in Prince George’s County, only .3% of those held on bail at the initial hearing received a bail amount of less than \$500, and just .96% were assigned an amount of less than \$500 at the bail review hearing.

Figure 15. Proportion of Low Cash Bonds (<\$500) at Initial and Bail Review Hearings



Given the small proportion of cases with a bail amount less than \$500, we used an alternative definition of ‘low cash bail’ by distinguishing the 10th percentile of the post-court decision years for each jurisdiction, and Figures 16 and 17 below display the change in these amounts over the time period. For Baltimore City, the 10th percentile bail amount for the years 2017-2020 was \$2,500. Figure 16 displays how this definition of low-cash bail (i.e., bails at \$2,500 or less) changed over the time period. Although there was an increase in the proportion of cases receiving at or less than \$2,500 increased in 2017 and 2018 following the court-rule change, after 2018, the proportion of cases receiving these “low case bails” decreased. In Prince George’s County, where bail amounts on average were significantly lower than those in Baltimore City, the 10th percentile of the period between 2017 and 2020 was \$1,000, thus we used this number as the cutoff of what constituted a “low bail amount” in Prince George’s County. As can be seen in Figure 17, in Prince George’s County the proportion of cases receiving cash bails at or less than \$1,000 increased steadily across the time period, indicating that over time District Court Commissioners were offering lower bail amounts to those held on bail at the initial hearing.

Figure 16. Baltimore City Initial Hearing Low Bail Amount (Less Than or Equal to \$2,500)

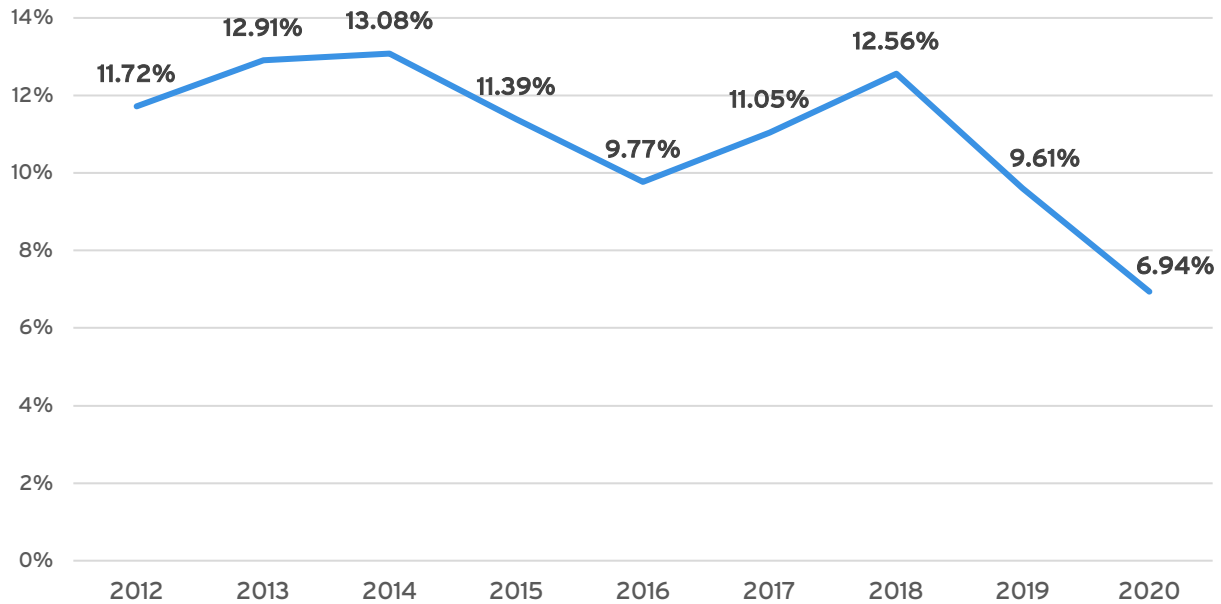
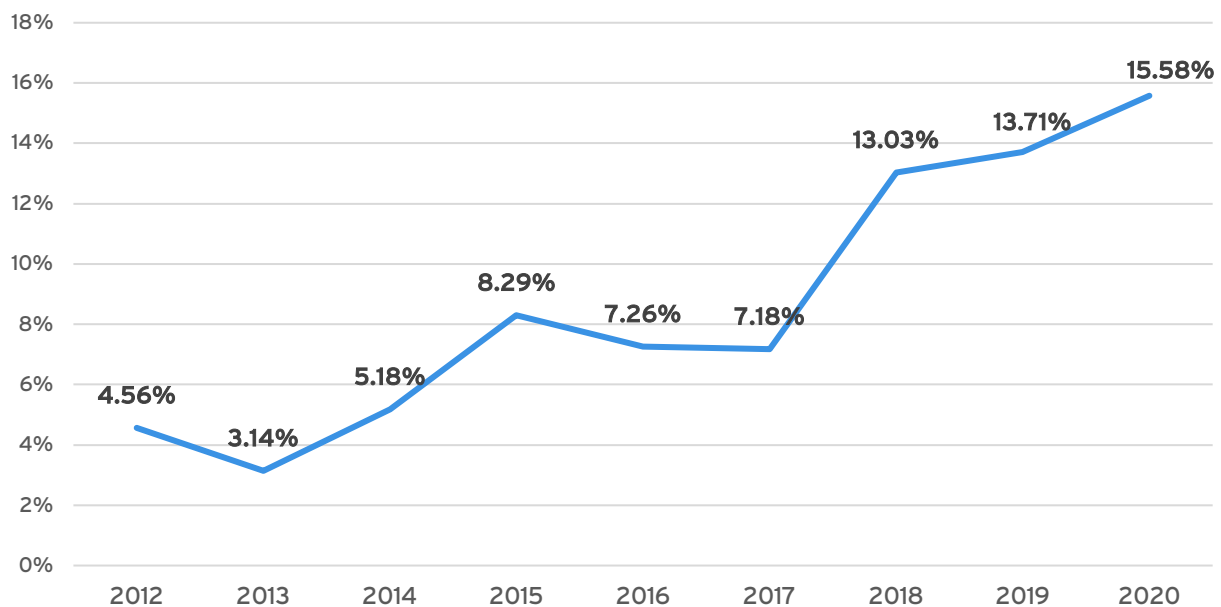


Figure 17. Prince George's County Initial Hearing Low Bail Amount (Less Than or Equal to \$1,000)



Initial Hearing and Bail Review Hearing Cross-Over

One area of bail processing that is relatively unexplored in prior literature in Maryland is the cross-over of bail decision-making that happens between the District Court Commissioner (DCC) at the initial bail hearing and the District Court judge at the bail review hearing. Both decision makers are faced with the same defendant and case information but have the discretion to come to different decisions, with the Judge deciding whether to continue the DCC's decision, opt for a less severe bail outcome, or opt for a more severe bail outcome.

Tables 1 and 2 display the cross-over in bail outcomes between the initial hearing and the bail review hearing outcomes. Not taking into account bail amounts, cells are highlighted to indicate whether the decision by the District Court judge was more severe (orange shading), less severe (blue shading), or of the same severity (gray shading) as the decision in that same case by the District Court Commissioner. For example, we coded more severe bail decisions are those that change from a release on own recognizance to held on bail, release on own recognizance to held without bail, or held on bail to held without bail. One thing to note, 46.58% of those in Baltimore City and 56.56% of those in Prince George’s County that were held on bail at their initial hearing do not have any bail review outcome. This could be the result of multiple processes including that the individual posted the bail amount assigned at the initial hearing and did not participate in a subsequent bail review or those who received bail at the initial hearing did not receive a bail review hearing. It’s unclear to us if it is possible for an individual who is held on bail or held without bail at the initial hearing to not have a bail review hearing. Our understanding of the system in Maryland is that the bail review hearing is an automatic process and does not require a request from a defendant (Blumauer et al., 2018). There would be an expected drop-off between the initial hearing and the bail review among those cases assigned an ROR at the initial hearing, in which the defendant would be released without having to pay any bail amount and would not require a bail hearing. As can be seen in Tables 1 and 2, this is the case as over 90% of cases receiving ROR at the initial hearing do not have a reported bail review hearing in both counties. The drop-off of cases (those held on bail or held without bail) between the initial hearing and bail review hearing is an area that requires further investigation.

Table 1. Baltimore City Initial Hearing and Bail Review Outcome Cross-Over

Initial Hearing Outcome	Bail Review Outcome				Total
	Missing	HDOB	HWOB	ROR	
Missing	48.51%	25.65%	22.07%	3.78%	503
HDOB	46.58%	42.91%	6.25%	4.25%	44945
HWOB	1.08%	19.27%	68.73%	10.91%	15285
ROR	91.67%	6.17%	1.46%	0.70%	59810

Table 2. Prince George’s County Initial Hearing and Bail Review Outcome Cross-Over

Initial Hearing Outcome	Bail Review Outcome				Total
	Missing	HDOB	HWOB	ROR	
Missing	13.78%	18.11%	60.58%	7.53%	624
HDOB	56.56%	37.59%	2.75%	3.10%	24,428
HWOB	3.53%	43.28%	50.18%	3.00%	4,330
ROR	93.97%	3.80%	1.42%	0.81%	29,033

The statistics presented in these tables provide interesting insight into the bail processes between the initial hearing and the bail review. From these results, it appears that District Court Judges rarely issue bail decisions that are more severe than those of the District Court Commissioners. Rather, in a majority of cases, the District Court Judges assign the same outcome as that of the DCC. For example, in Baltimore City, in 68.7%

of cases where a DCC held the defendant without bail, the District Court Judge issued the same outcome at the bail review hearing. It also appears that District Court Judges are more likely to issue less severe bail outcomes rather than more severe outcomes relative to the DCC. This may reflect a process in which DCCs err on the side of caution to limit risk to public safety and issue harsher bail decisions which are then modified in some cases by the District Court Judges.

Tables 3-6 below further unpack the initial hearing and bail review outcome cross-over pre- and post-rule change in both Baltimore City and Prince George’s County. First, Tables 3 and 4 display the cross-over for Baltimore City. Comparing Tables 3 and 4, it is clear there were significant differences before and after the court rule change in how District Court Judges determine bail outcomes relative to the initial hearing outcomes. First, it’s important to note the increase in missingness between Tables 3 and 4, notably that the percent of cases assigned HDOB (held on bail) at the initial hearing that are missing a subsequent bail review hearing in Baltimore City increases from 42.63% between 2012 and 2016 to 63.63% from 2017 to 2020. It is unclear what would contribute to a difference in the proportion of drop-off cases across the study period. One notable change in the tables below is that the percent of cases that were originally determined as held on bail and then switched to held without bail at the bail review hearing doubled from pre- and post-2017 (5.25% to 10.58%). Additionally, the percent of cases held on bail at the initial hearing that were also held on bond at the bail review hearing dropped from 48.97% down to 16.78%. Also of interest, the percent of cases held without bail at the initial hearing that were subsequently released on own recognizance at the bail review hearing jumped from 2.04% to 14.52%.

Table 3. Baltimore City Initial Hearing and Bail Review Outcome Cross-Over Pre-Rule Change (2012-2016)

Initial Hearing Outcome	Bail Review Outcome				Total
	Missing	HDOB	HWOB	ROR	
Missing	49.83%	34.26%	13.49%	2.42%	289
HDOB	42.63%	48.97%	5.25%	3.15%	36,482
HWOB	0.07%	35.86%	62.03%	2.04%	4,417
ROR	91.44%	7.18%	0.85%	0.53%	44,233

Table 4. Baltimore City Initial Hearing and Bail Review Outcome Cross-Over Post-Rule Change (2017-2020)

Initial Hearing Outcome	Bail Review Outcome				Total
	Missing	HDOB	HWOB	ROR	
Missing	46.73%	14.02%	33.64%	5.61%	214
HDOB	63.63%	16.78%	10.58%	9.02%	8,463
HWOB	1.49%	12.53%	71.46%	14.52%	10,868
ROR	92.32%	3.31%	3.19%	1.17%	15,577

Tables 5 and 6 show the same analyses for Prince George’s County. As with Baltimore City, the percentage of cases assigned to HDOB at the initial hearing that are missing a subsequent bail review hearing in Prince George’s County increases from 51.27% between 2012 and 2016 to 64.96% from 2017 to 2020. Similar

patterns emerge in Prince George’s County as with Baltimore City, such as the percent of cases held on bail at the initial hearing that were also held on bond at the bail review hearing dropped from 44.13% down to 27.21%. Additionally, the percent of cases held without bail at the initial hearing that were amended to held on bail at the bail review hearing dropped from 57.37% to 38.56%. These patterns show interesting differences before and after 2017 when the court-rule change went into effect that deserves further analysis.

Table 5. Prince George’s County Initial Hearing and Bail Review Outcome Cross-Over Pre-Rule Change (2012-2016)

Initial Hearing Outcome	Bail Review Outcome				Total
	Missing	HDOB	HWOB	ROR	
Missing	7.58%	21.80%	66.82%	3.79%	211
HDOB	51.27%	44.13%	2.24%	2.36%	14991
HWOB	0.83%	57.37%	40.52%	1.29%	1086
ROR	93.39%	4.74%	1.17%	0.70%	15612

Table 6. Prince George’s County Initial Hearing and Bail Review Outcome Cross-Over Post-Rule Change (2017-2020)

Initial Hearing Outcome	Bail Review Outcome				Total
	Missing	HDOB	HWOB	ROR	
Missing	16.95%	16.22%	57.38%	9.44%	413
HDOB	64.96%	27.21%	3.55%	4.28%	9,437
HWOB	4.44%	38.56%	53.42%	3.58%	3,244
ROR	94.64%	2.70%	1.71%	0.94%	13,421

Bail Decisions by Demographic Subgroups

The following descriptive statistics breakdown some of the bail decisions described above by specific subgroups, namely sex and race. Figure 18 below displays outcomes from the initial bail hearing broken down by males and females. In both Baltimore City and Prince George’s County there were distinct differences in initial hearing outcomes by sex, namely that males were more likely to be held on bail or held without bail and that females were more likely to be assigned ROR at the initial hearing. There were also differences in the bail amounts assigned at the initial hearing (not displayed here). The average bail amount for those held on bail in Baltimore City across the study period was \$53,810.73, of which male averaged \$57,159.16, but females averaged just \$33,537.96. A similar pattern exists in Prince George’s County in which the average bail amount for those held on bail at the initial hearing was \$15,892.34, of which males averaged \$16,920.87 compared to the average for females of \$9,282.56. These descriptive statistics are presented without controlling for other case factors such as crime type which likely accounts, in part, for some of the differences observed here.

Figure 18: Initial Hearing Bail Outcomes by Sex

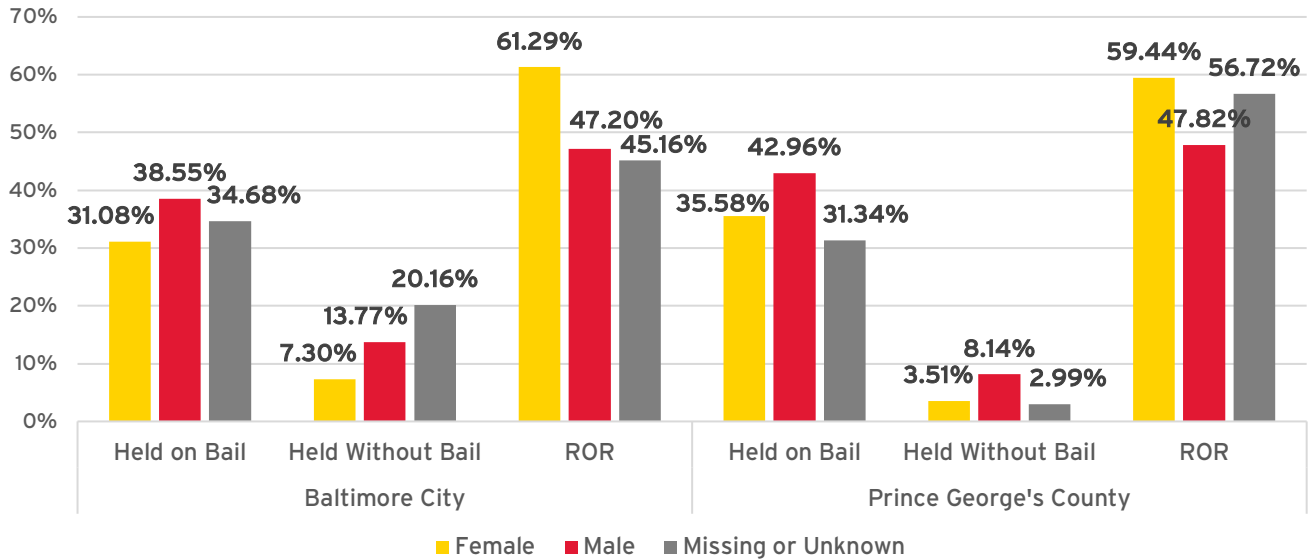
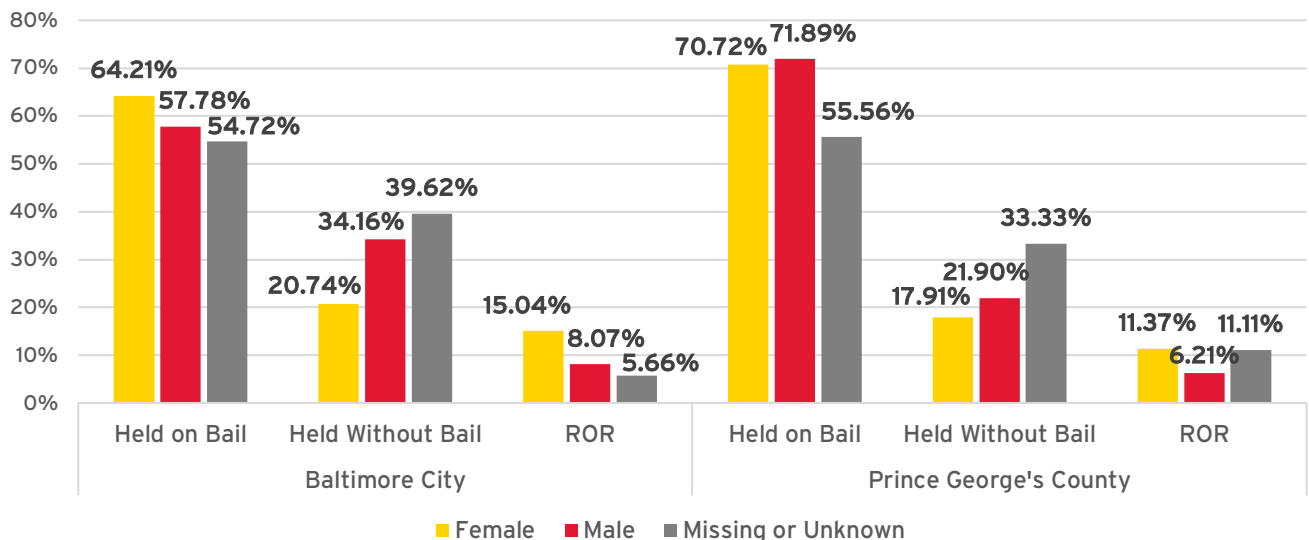


Figure 19 displays outcomes from the bail review broken down by males and females. Compared to the initial hearing outcomes displayed above in Figure 18, there are fewer differences in bail outcomes at the bail review hearing, particularly in Prince George's County. However, in both Baltimore City and Prince George's County, males have higher rates of being held without bail relative to females. Bail outcomes at the bail review hearing may be more similar across sex due to the drop-off of less severe crime types between the initial hearing and the bail review hearing. As described above, over 90% of cases receiving ROR at the initial hearing (most likely to be the least serious offenses) do not have a bail hearing, indicating that the cases that do have a bail review hearing are likely to be more severe, thus limiting some of the differences in cases between males and females. There were also differences in the bail amounts assigned at the bail review (not displayed here). The average bail amount for those held on bail in Baltimore City across the study period was \$60,044.76, of which males averaged \$65,914.45 but females averaged just \$28,106.64. A similar pattern holds in Prince George's County in which the average bail amount for those held on bail at the bail review hearing was \$21,830.70, of which males averaged \$23,086.48 compared to the average for females of \$12,600.99.

Figure 19: Bail Review Outcomes by Sex



Figures 20 and 21 display outcomes from the initial hearing broken down by race. The CLUE data does not have an ethnicity indicator; thus comparisons are presented by the categories of White, Black, and Other or Unknown. As can be seen, there are significant differences in initial hearing bail outcomes across racial groups, particularly in Baltimore City. In Baltimore City, 62.08% of cases with White defendants are released on their own recognizance at the initial hearing, compared to just 47.58% of cases with Black defendants. Additionally, just 6.48% of cases with White defendants are held without bail compared to 13.68% of cases with Black defendants in Baltimore City. Racial differences are less pronounced in Prince George's County, although cases with White defendants are ROR'd in 53.17% of initial hearings compared to 49.01% of cases with Black defendants.

Figure 20. Baltimore City Initial Hearing Bail Outcome by Race

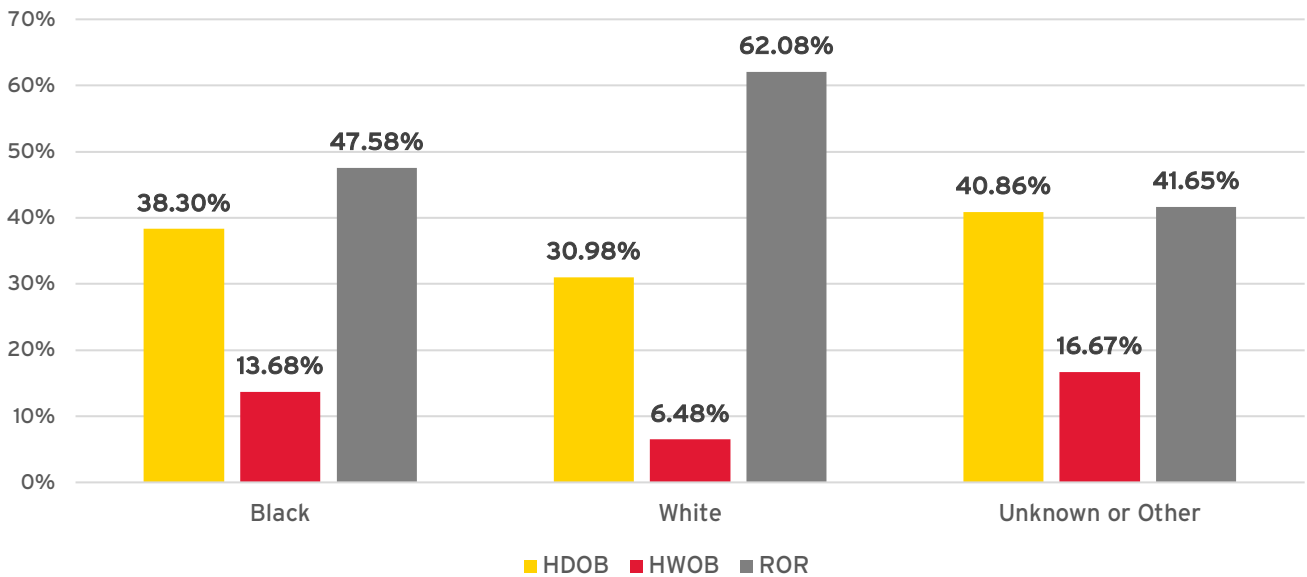
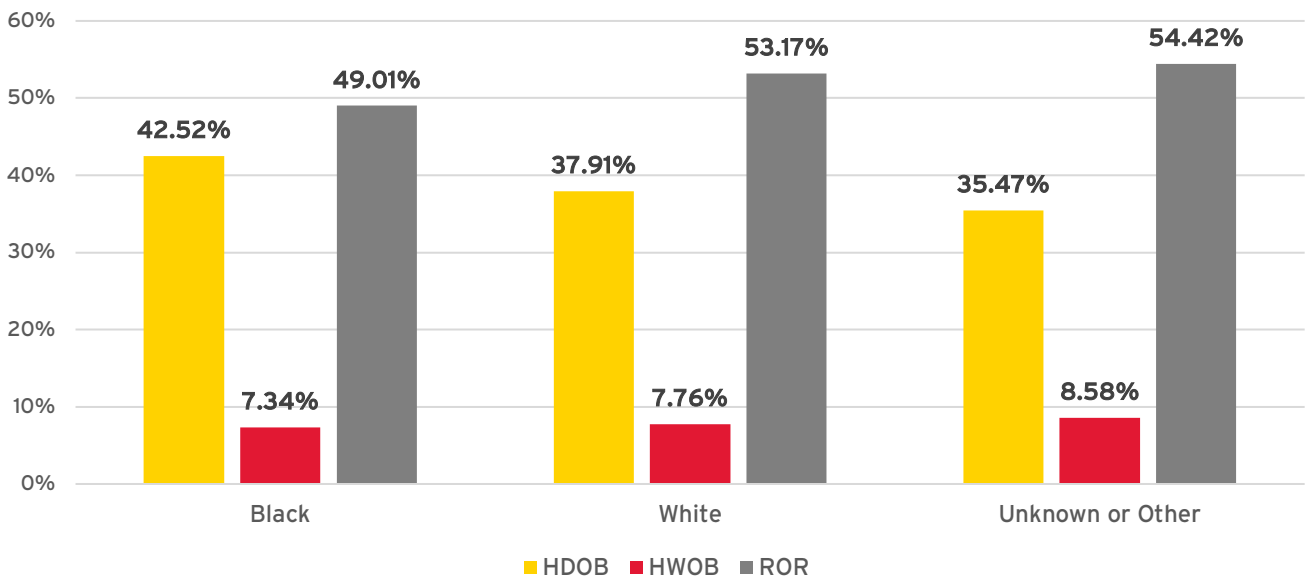


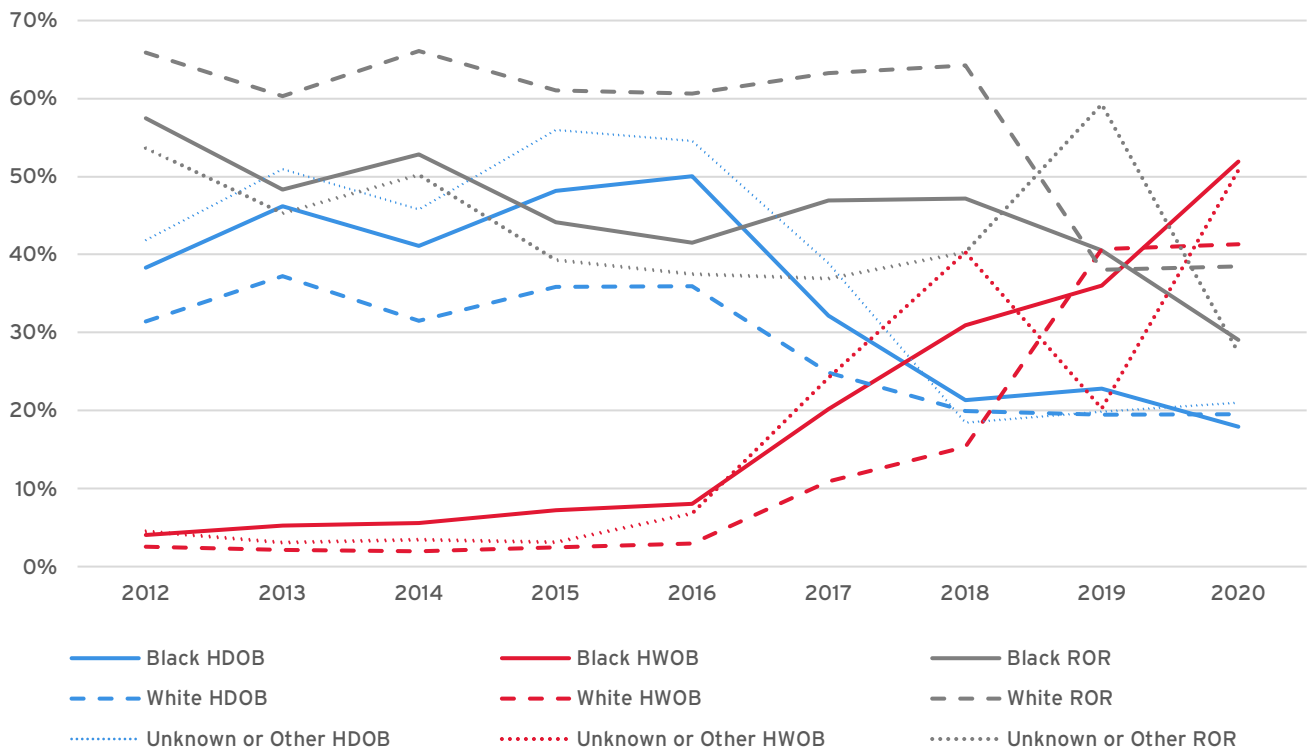
Figure 21. Prince George's County Initial Hearing Bail Outcome by Race



Differences across racial groups were also found in the average bail amount set at the initial hearing (not displayed). The average bail amount for those held on bail at the initial hearing in Baltimore City across the study period was \$53,810.73, of which cases with a Black defendant averaged \$56,371.97 whereas a White defendant averaged just \$36,632.18. In contrast, in Prince George’s County the average bail amount for those held on bail at the initial hearing was \$15,892.34, of which cases with a Black defendant averaged \$15,503.66 compared to the average for cases with a White defendant of \$18,929.08.

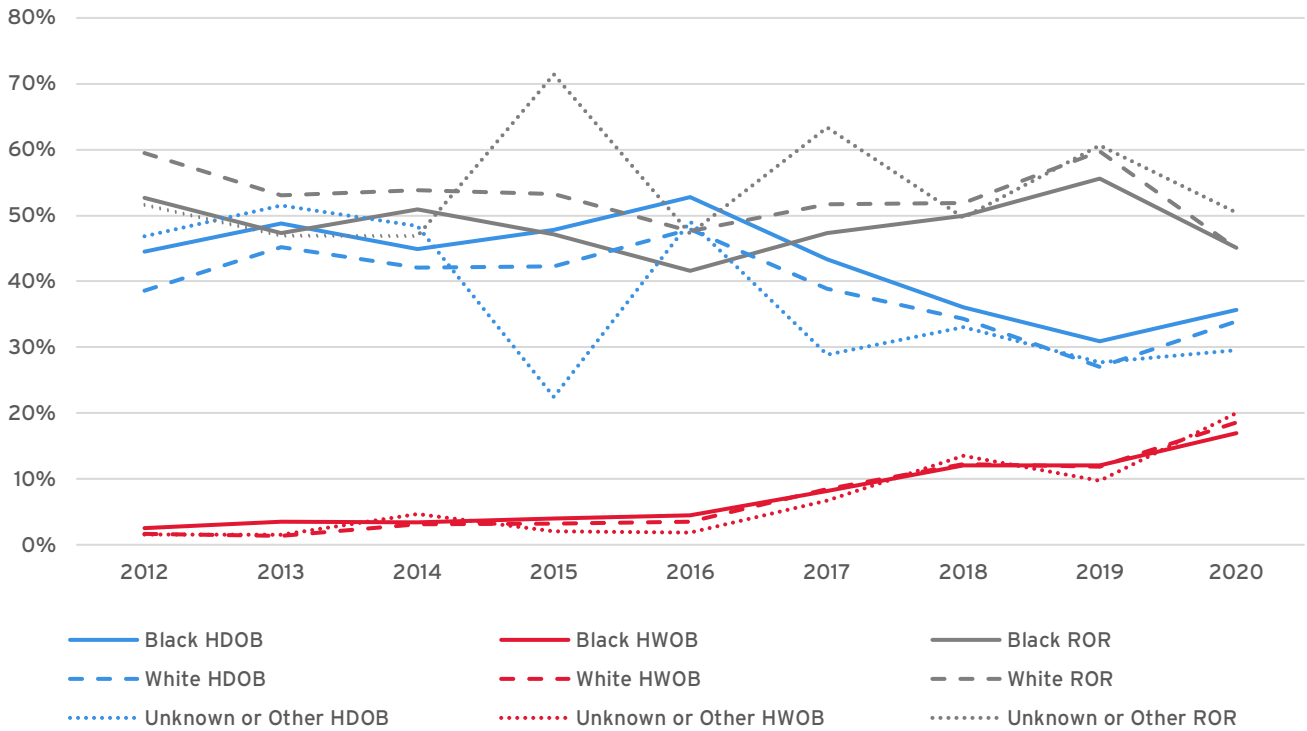
Figures 22 and 23 display the changes in initial hearing outcomes over the time period by race. In Baltimore City, the percentages of held without bail across racial groups tracked closely up to 2017, but from 2017 through 2019, the gaps between cases with White and Black defendants being held without bail grew. The opposite is true with rates of ROR, with racial gaps in the percent of ROR cases shrinking significantly over the time period in Baltimore City.

Figure 22. Baltimore City Initial Hearing Bail Outcome by Race Over Time



Differences across racial groups in initial hearing outcomes in Prince George’s County were much smaller than in Baltimore City, and there were minimal differences in outcomes across groups by the end of the study period.

Figure 23. Prince George's County Initial Hearing Bail Outcome by Race Over Time



Figures 24 and 25 display the outcomes from the bail review hearings by race. Similar to the results from the initial hearing outcomes by race, there are also clear racial differences in the outcomes assigned by District Court Judges at the bail review hearing. For example, in Baltimore City, among cases with a Black defendant, 34.37% are held without bail at the bail review hearing, compared to just 20.14% of cases with a White defendant. In contrast, in Prince George's County cases with a Black defendant are held without bail in 20.25% of cases compared to 26.20% for cases with a White defendant.

Figure 24. Baltimore City Bail Review Bail Outcomes by Race

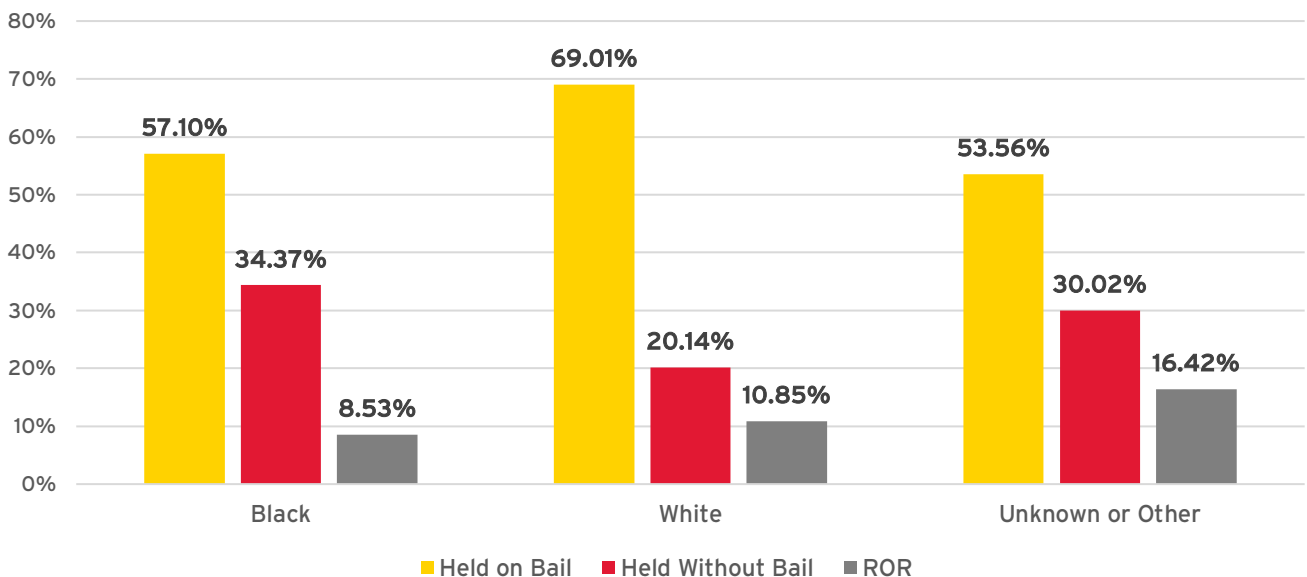
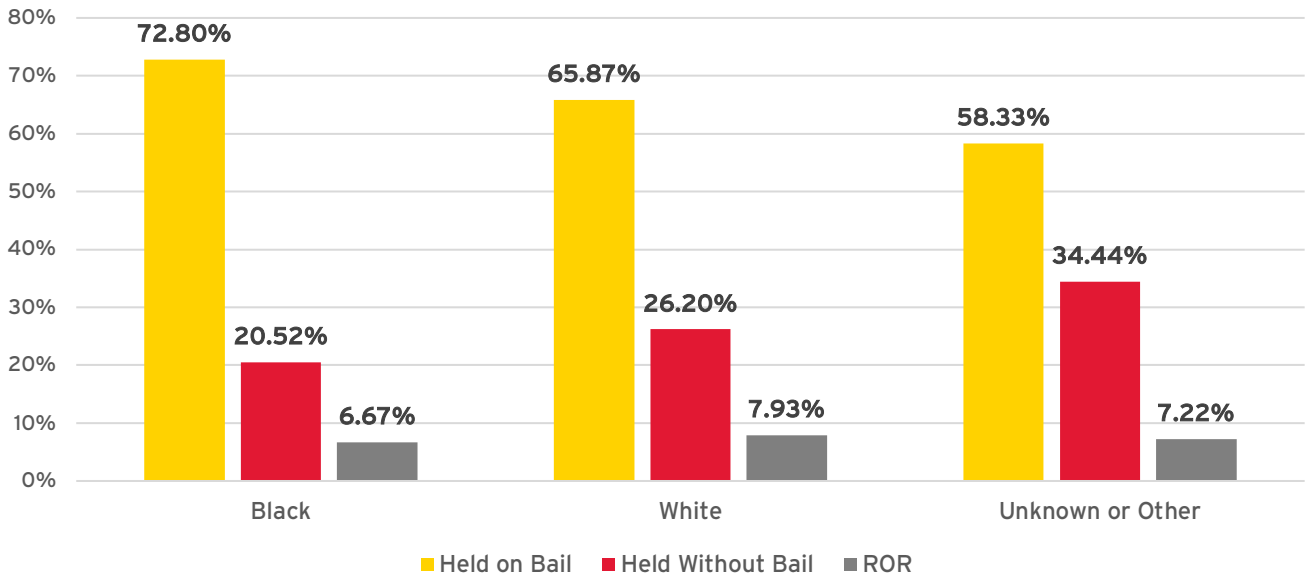


Figure 25. Prince George’s County’s Bail Review Outcomes by Race



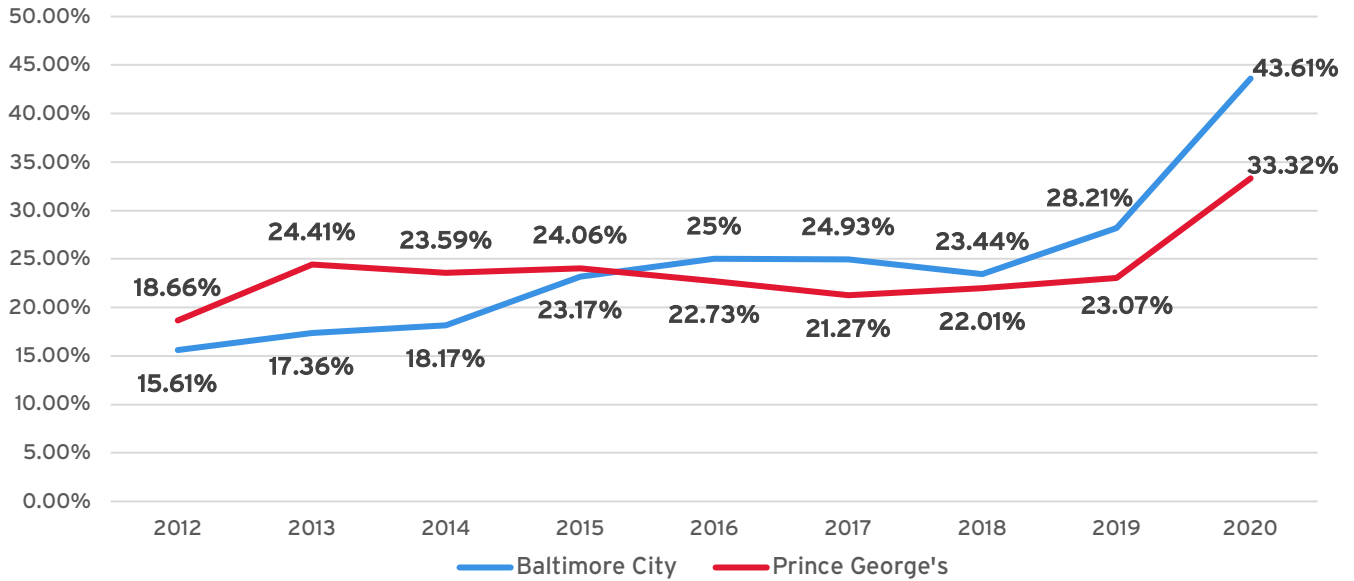
Additionally, there were racial differences in the average bail amount set at the bail review hearing by race (not displayed). The average bail amount for those held on bail at the bail review hearing in Baltimore City across the study period was \$60,044.76, of which cases with a Black defendant averaged \$65,736.53 but cases with a White defendant averaged just \$32,050.42. The opposite differential exists in Prince George’s County in which the average bail amount for those held on bail at the initial hearing was \$21,830.70, of which cases with a Black defendant averaged \$21,572.54 compared to the average for cases with a White defendant of \$23,746.40.

Exploring Differences by Crime Type

The following descriptive statistics further examine general and bail-specific analyses by identifying whether any charge in the case was classified as a violent charge. One potential source of some of the findings above regarding pre- and post-court rule change would be if the makeup of cases changed markedly around the same time period. For example, the steady increases in the percentage of cases held without bail over the time period could be attributed to a larger makeup of cases identified as more serious or more violent.

Figure 26 displays the percentage of cases over the time period of the study with at least one violent charge. This does not restrict to only those with a violent charge with a “guilty” disposition but captures any case history of the originating charges being identified as “violent.” As with all bail analyses above, the sample used for this graph is restricted to “statement of charges” cases only. From the figure below, it’s clear that there was a significant increase in the percent of cases with at least one violent charge over the study period in both Baltimore City and Prince George’s County, with the percent of violent cases more than doubling in both jurisdictions over 9 years. Interestingly, the percentage of violent cases held relatively steady during the time of extreme changes in some of the prior analyses, namely between 2015 and 2018. It should be noted again that all statistics presented here are preliminary and descriptive, and only trends over time are shown.

Figure 26. Percent of Cases with At Least One Violent Charge in Baltimore City and Prince George's County



Figures 27 and 28 display the proportion of each outcome at either the initial hearing or the bail review hearing by any violent charge. For example, Figure 27 shows that in Baltimore City, among those cases being held on bail at the initial hearing, 30.30% had at least one violent charge associated with the case (regardless of the disposition status of that charge), compared to 45.84% of cases held without bail, and just 9.24% of ROR's cases. Among bail review hearing cases in Baltimore City, 28.15% of those held on bail had at least one violent charge, 41.56% of cases held without bail had at least one violent charge, and 45.17% of the cases resulting in a release on own recognizance had at least one violent charge.

Figure 27: Baltimore City Initial Hearing and Bail Review Hearing Outcomes by Any Violent Charge

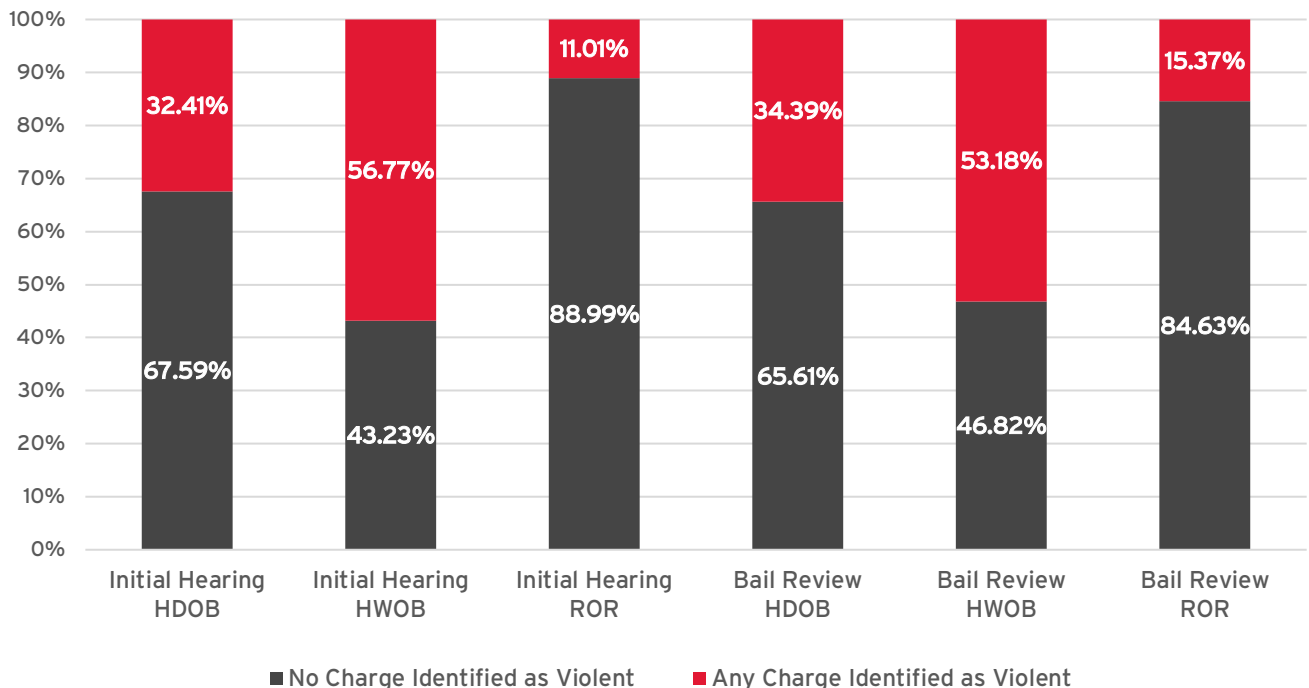
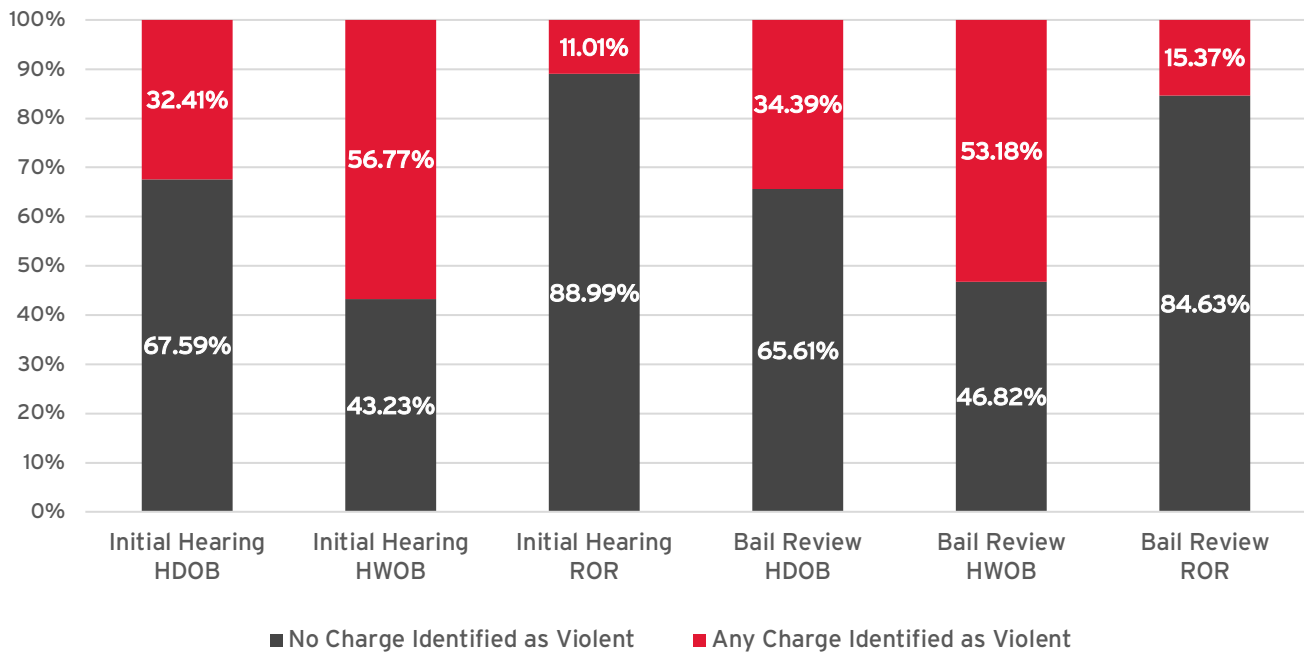


Figure 28 displays these results for Prince George’s County. Among those cases held on bail at the initial hearing, 32.41% had at least one violent charge, compared to 56.77% of cases held without bail, and just 11.01% of ROR’d cases. For the bail review in Prince George’s County, 34.39% of cases held on bail had at least one violent charge, compared to 53.18% of cases held without bail, and 15.37% of cases that were released on own recognizance.

Figure 28. Prince George’s Initial Hearing and Bail Review Hearing Outcomes by Any Violent Charge



Descriptive Summary of Exploratory Analysis of Pretrial Outcomes

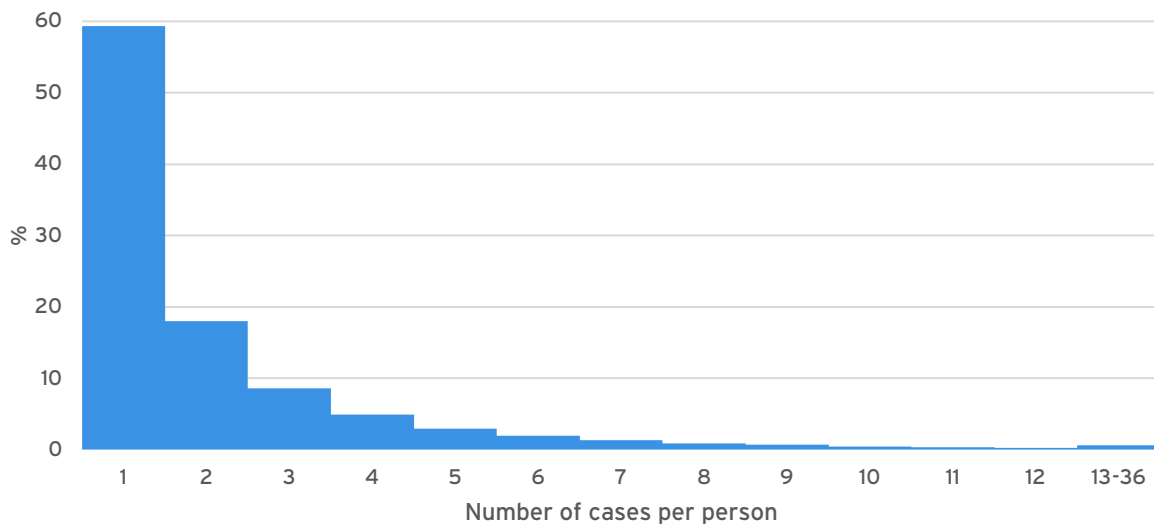
Together, the above descriptive statistics paint a picture of bail processing that has shifted significantly in the past decade, particularly before and after 2017, in which a court rule change in Maryland shifted the focus away from monetary bail. This report is an important first step in examining court pretrial decision-making with a new and under-utilized dataset. The statistics presented above should be taken with caution, as concerns with missing data and understanding the scope of the CLUE dataset limit the full understanding of bail processing within the state of Maryland.

Assessment of Machine Learning Analysis for Creating Criminal History and Recidivism Measures

Part of this project involved testing the ability to create unique person identifiers in the CLUE data, a necessary step to further work capturing prior criminal history and recidivism. It's necessary to be able to identify unique individuals across multiple cases to create variables providing the context of prior criminal filings as well as subsequent recidivism in the form of additional criminal court filings. In this project, we used a probabilistic record linking tool, *dedupe* (Gregg & Eder, 2022), to create a unique person identifier. Using machine learning algorithms, dedupe allows for identifying and clustering cases that most likely belong to the same individual based on matching variables. We used the entire data of Baltimore City district court cases between 2012 and 2020 (n=228,000) to test the ability of this linking tool to convert the case-level data to the person-level data. We used the defendant name, date of birth, race, sex, and address as matching variables, which, after probabilistically accounting for variations (e.g., spelling differences, erroneous and missing entries, etc.) should match across cases for the same individual. In addition to its built-in blocking rules to reduce the number of required comparisons, the tool uses an active learning algorithm to allow us to manually label sampled pairs of cases to facilitate the linking process. As part of the effort to generate accurate counts of cases per person, we also further cleaned the data by identifying and removing cases that were filed on the same day with largely overlapping charge information.

The linking tool identified roughly 112,000 unique individuals. While the maximum number of filed cases that belong to a single individual is 36, the distribution of cases per person is highly skewed. As Figure 29 shows, nearly 60% of individuals do not appear to have a prior case or a new case within the years that are covered in the dataset.

Figure 29: Distribution of Filed Cases per Person in Baltimore District Court



This analysis suggests that the CLUE data can be leveraged to assess questions concerning recidivism and further investment in this type of analysis could yield insight into questions concerning the relationship between criminal history and case outcomes. For instance, the created variable that captures the count of prior cases per person could be used to analyze the relationship between pretrial outcomes of interest, such as bail review outcomes, and the extensiveness of criminal history over time (e.g., annually). With the process of

creating criminal history measures in place, we have the ability to create more specific criminal history measures, such as the number of prior cases with violent offenses, the number of prior convictions, and the number of prior incarceration sentences to refine recidivism analyses.

As the current results suggest, the project has demonstrated the potential to leverage the publicly available case-level judicial data for person-level criminal history and recidivism analysis and the development of prediction instruments to help guide pretrial decision making. We elaborate on additional potential research avenues below in the future directions section.

Data Documentation

Throughout the course of this project, we created extensive code to manipulate the original data files into a complete, analyzable framework. Within this code, effort was made to extensively document each data decision made, the reasoning behind the decisions, and the results of those decisions. To automate some of the decisions made in the process of creating variables and extracting relevant information from each data table, we also took steps to begin translating this code into Python. Once the data were cleaned, restructured, and merged into one large analysis file at the case-level, we created a codebook for Baltimore City (with the codebook for Prince George's County in development), highlighting all variables, both original and created, in the files, variable labels, a makeup of each variable including missingness in the variable, and additional notes related to each variable if necessary. This documentation is in development and will be necessary in ensuring the continuation of any research with the CLUE data. All documents and code are available upon request, and the Baltimore City codebook and STATA code will be included as attachments in the final submission for this project.

Assessment of the Future Utility of CLUE Database as an Evaluative Tool and Future Directions

We learned from this project the potential to use the CLUE dataset to look at a wide-variety of court-related research questions. This data could be leveraged in the future to examine pretrial decisions in all counties included in the CLUE dataset, examining the role of pretrial processing on later court outcomes, evaluating actuarial risk assessments, and a large-range of other court-related research questions. Moreover, the comparison of data fields pertaining to pretrial processes shows a high degree of overlap across Baltimore City and Prince George's County. To the extent that this degree of correspondence pertains to other jurisdictions represented in the CLUE data, this data source can be leveraged to analyze statewide trends and/or compare patterns cross-jurisdictionally. This potential is important for understanding outcomes of policy or social events (e.g., COVID pandemic) on crime and criminal justice processing.

A critical next step in being able to answer these questions is the ability to link individuals across their court cases both within the same county as well as across different counties. Our initial small-scale effort record linking for Baltimore City suggests that a larger scale record linking effort is feasible with the CLUE data. Record linking would allow us to move beyond a simple count of prior cases, to also create variables to capture more complex criminal histories such as the number of prior cases with violent charges or the number of prior cases that resulted in incarceration. Or to measure the number of arrests or court appearances across multiple counties. The next step in the use of person-level data is to construct recidivism measures. Once we construct a dataset that combines both district and circuit court data, we can calculate the duration between case filing and case disposition during which we can capture a new case filing as recidivism (Kleinberg et al., 2018). Alternatively, we could fix the follow-up length (Wang et al., 2022) so that recidivism analysis would not depend on the varying lengths of pretrial periods. Recidivism analysis will not only identify pretrial risk factors but will also help develop a predictive model that can be used as a pretrial risk assessment instrument.

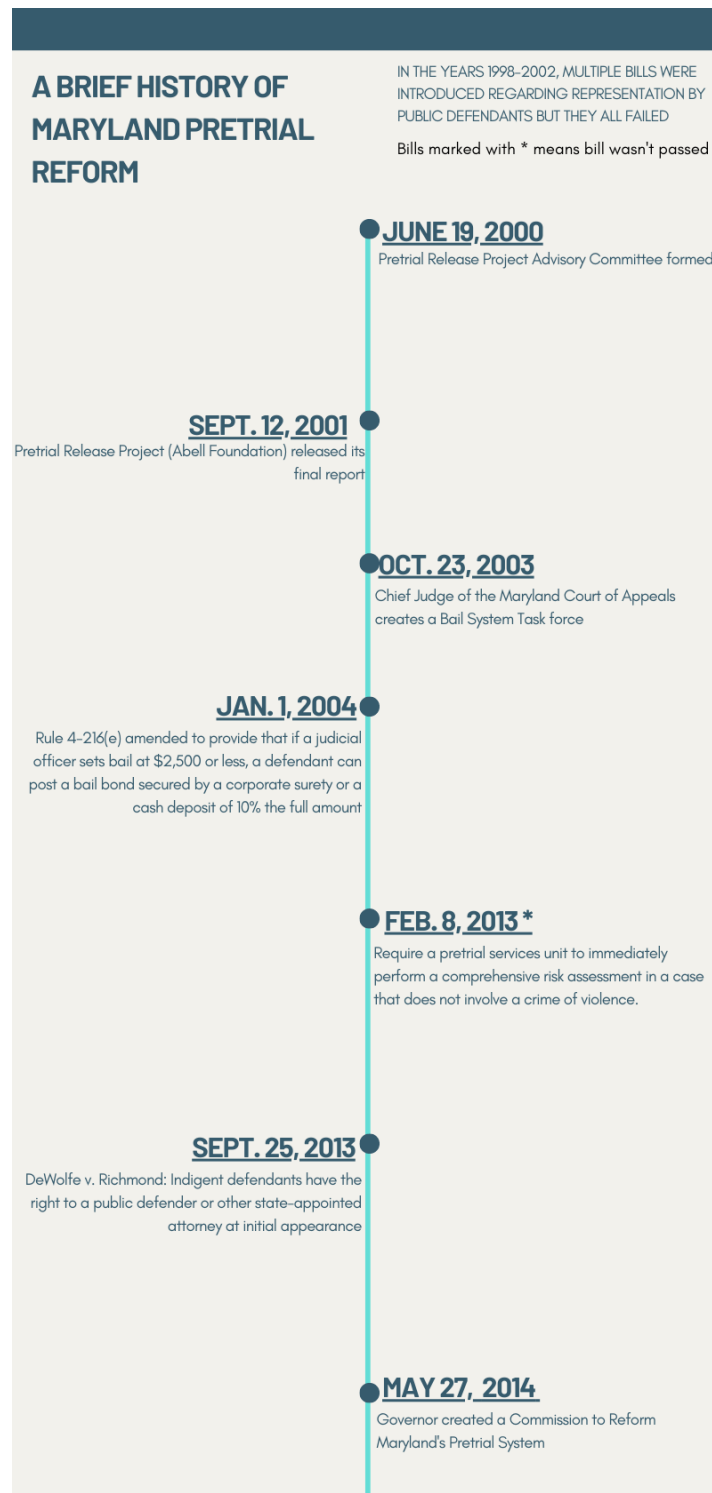
With this powerful capability to create person-level measures such as criminal history and recidivism out of case-level datasets, the current project has demonstrated the potential to generate crucial analysis and information to help shape pretrial policy in the state. For example, it would be possible to measure whether there are important differences between defendants held with or without bail, or whether individuals at the same level of pretrial re-arrest risk, or failure to appear risk, are being treated the same way both within and across jurisdictions.

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Appendix A. Timeline of Pretrial Reform Efforts in Maryland



FEB. 11, 2015 *

A bill requiring a commissioner to release certain defendants if their most serious offense is one of the offenses listed in the legislation

FEB. 11, 2016*

A bill is introduced to order the pretrial release of a person on ROR, on nonfinancial conditions, or unsecured bond or subject to least restrictive conditions that will reasonably ensure their appearance

OCT 25, 2016

Frosh submits letter requesting to the Standing Committee on Rules of Practice and Procedure consider that defendants are not held in pretrial detention solely because they lack the financial resources to post monetary bail

FEB. 17, 2017

Maryland Court of Appeals issued Rules Order that amended pretrial procedure rules

JULY 1, 2017

Revised rules go into effect - specifically the least onerous condition of release rule.

OCT. 1, 2017

Justice Reinvestment Act was enacted by the Governor's Office of Crime Control and Prevention

JAN. 25, 2018

Two bills are introduced establishing the Pretrial Services Program Grant Fund to provide grants to counties to establish or improve pretrial services programs

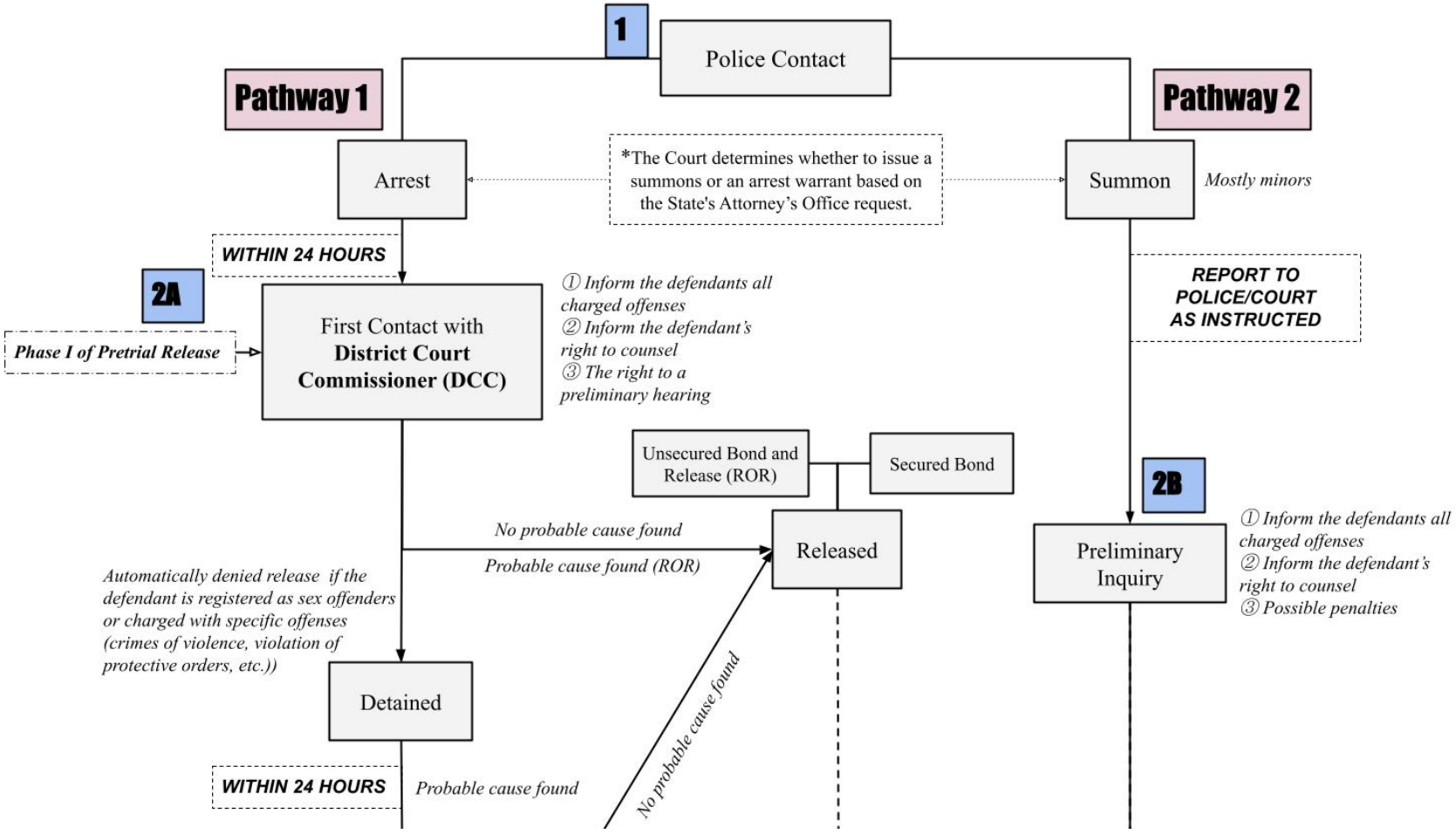
MAR. 23, 2018

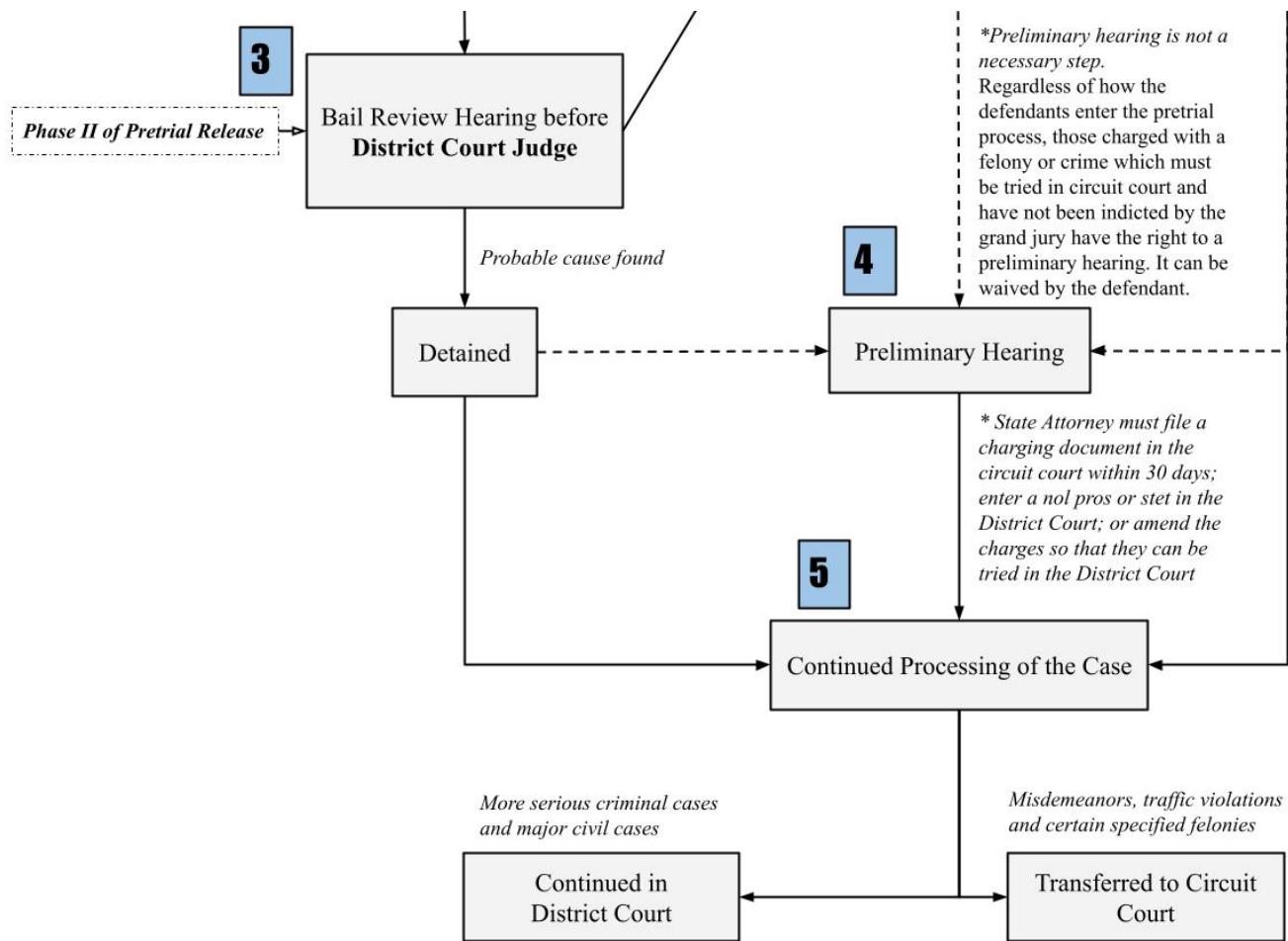
One million dollars is allocated in the Governor's Office of Crime Control and Prevention for pretrial start-up services

OCT. 1, 2019

Prince George County Prosecutor announced that the office will no longer request cash bail

Appendix B. A Profile of the Pretrial Process in Maryland





1. Police Contact

The first step of entering the criminal justice system and initiating the pretrial process is police contact. There are two types of police contact: arrest and summons. Two kinds of arrest situations exist: on-site arrest and arrest by a warrant. Despite the differences in circumstances, these two types of arrests follow the same pretrial process. For circumstances where on-site arrest is not applicable, the courts usually determine whether to issue a summons or an arrest warrant based on the State's Attorney's Office's request. The following processes diverge contingent on the type of police contact.

- *Go to Pathway 1 if the contact type is ARREST*
- *Go to Pathway 2 if the contact type is SUMMONS*

Pathway 1 - Arrest

2A. First contact with District Court Commissioner (DCC)

If the suspect is arrested, they are taken before a judicial officer within 24 hours of the arrest, typically a District Court Commissioner (DCC), for an initial appearance. This is the start of the *Phase I of Pretrial Release Review*. At the initial appearance the defendant is advised of all charged offenses, the defendant's right to counsel, and the right to a preliminary hearing, if applicable. Maryland law states a defendant must be advised of the right to a preliminary hearing if he/she is charged with a felony outside of the jurisdiction of the District Court in which they appear. If the defendant does not request a preliminary hearing within 10 days of the initial appearance, the right to that hearing is waived.

Anytime a defendant is arrested without a warrant, the DCC must determine whether probable cause existed for that arrest. If the DCC determines there was probable cause, the commissioner must then decide if the defendant is eligible for release prior to the trial and under what conditions. DCCs cannot authorize the release of certain types of defendants, such as defendants registered as sex offenders and defendants with specific offenses (e.g., crimes of violence, violation of a protective order, drug kingpin, etc.). Anytime a commissioner denies pretrial release (i.e., registered sex offender, specific offenses defendant), the defendant is entitled to a bail review hearing during which a judge reviews the conditions of release set by the commissioner, and rules whether to continue, amend, or revoke the decision. This judicial review must occur within 24 hours of the DCC decision.

- *Go to 3, if the DCC decides to detain the defendant*
- *Jump to 4, if all conditions are fulfilled:*
 - *(a) the DCC decides to release the defendant*
 - *(b) the defendant is eligible for preliminary hearing*
 - *(c) the defendant does not waive the right to preliminary hearing*
- *Jump to 5, if all conditions are fulfilled:*
 - *(a) the DCC decides to release the defendant*
 - *(b) the defendant is eligible for preliminary hearing*

- *(c) the defendant waives the right to preliminary hearing*

- *Jump to 5*, if both conditions are fulfilled:

- *(a) the DCC decides to release the defendant*

- *(b) the defendant is not eligible for preliminary hearing*

3. Bail review hearing before District Court Judge

This is the *Phase II of Pretrial Release Review*. Anytime a commissioner denies pretrial release, the defendant is entitled to a bail review hearing during which a District Court judge reviews the conditions of release set by the commissioner, and rules whether to continue, amend, or revoke them. In theory, a judge should only call for pretrial detention without bail when there is “clear and convincing evidence” that the defendant poses a significant public safety threat or is unlikely to appear in court for subsequent hearings. In reality, many other factors are considered.

If the judge determines that bail is appropriate, they can decide whether the bail should be “unsecured” or “secured.” Unsecured bail requires no money to be paid up front. However, if the defendant fails to appear in court, they then will owe the full amount of the unsecured bail. A secured bail requires money and/or collateral to be posted or paid before the person is released.

Regardless of whether the defendant is released, detained, or bailed, they can ask for a preliminary hearing if they are charged with a felony outside of the jurisdiction of the District Court in which they appear. This right can be waived.

- *Go to 4*, if both conditions are fulfilled:

- *(a) the defendant is eligible for preliminary hearing*

- *(b) the defendant does not waive the right to preliminary hearing*

- *Go to 5*, if both conditions are fulfilled:

- *(a) the defendant is eligible for preliminary hearing*

- *(b) the defendant waives the right to preliminary hearing*

- *Go to 5*, if the defendant is not eligible for preliminary hearing

4. Preliminary Hearing

A preliminary hearing is held if the District Court determines that probable cause exists to charge the defendant with a crime.

Regardless of whether the defendant is released, detained, or bailed, they can ask for a preliminary hearing if they are charged with a felony outside of the jurisdiction of the District Court in which they appear. This right can be waived. If the court finds no probable cause, charges may be dismissed.

- *Case dismissed*, if the court finds no probable cause

- *Go to 5*, if the court finds probable cause

5. Continued Processing of the Case

In the District Court, criminal cases are terminated in multiple ways. If the case is not dismissed, often it is adjudicated within the District Court. Some cases are forwarded to the Circuit Court under one of the following circumstances: (1) a party to the case is entitled to and requests a jury trial, (2) the initial charges involve serious felonies that fall under the jurisdiction of Circuit Court, or (3) the initial charges do not fall under the jurisdiction of Circuit Court but are altered after arrest in a way that makes the case eligible for Circuit Court. Generally speaking, the Circuit Court handles the more serious criminal cases as well as major civil cases, while the District Court handles misdemeanors, traffic violations, and certain specified felonies.

Pathway 2 - Summons

2B. Preliminary Inquiry

If the suspect is summoned, they are asked to report to the police or to the court as instructed. They then go through *Preliminary Inquiry*. During preliminary inquiry, the defendant is advised of all charged offenses, the defendant's right to counsel, and the right to a preliminary hearing, if applicable. Maryland law states a defendant must be advised of the right to a preliminary hearing if they are charged with a felony outside of the jurisdiction of the District Court in which they appear. If the defendant does not request a preliminary hearing within 10 days of the initial appearance, the right to that hearing is waived.

- *Go to 4*, if both conditions are fulfilled:
 - *(a) the defendant is eligible for preliminary hearing*
 - *(b) the defendant does not waive the right to preliminary hearing*
- *Jump to 5*, if both conditions are fulfilled:
 - *(a) the defendant is eligible for preliminary hearing*
 - *(b) the defendant waives the right to preliminary hearing*
- *Jump to 5*, if the defendant is not eligible for preliminary hearing

4. Preliminary Hearing

A preliminary hearing is held if the District Court determines that probable cause exists to charge the defendant with a crime.

Regardless of whether the defendant is released, detained, or bailed, they can ask for a preliminary hearing if they are charged with a felony outside of the jurisdiction of the District Court in which they appear. This right can be waived. If the court finds no probable cause, charges may be dismissed.

- *Case dismissed*, if the court finds no probable cause
- *Go to 5*, if the court finds probable cause

5. Continued Processing of the Case

In the District Court, criminal cases are terminated in multiple ways. If the case is not dismissed, often it is adjudicated within the District Court. Some cases are forwarded to the Circuit Court, identified as "jury trial

prayer”, or identified as a “stet docket.” Cases in District Court designated as a “stet” indicate that that case is inactive for a certain amount of time, typically during which a defendant is completing agreed upon conditions such as community service or anger management classes. If a defendant chooses to “pray a jury trial,” that case is moved to the Circuit Court for a jury trial, as the District Court only handles bench trials. Generally speaking, the Circuit Court handles the more serious criminal cases as well as major civil cases, while the District Court handles misdemeanors, traffic violations, and certain specified felonies.



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