Report of the Intergovernmental Pretrial Justice Reform Task Force

Submitted by
Hon. Robert E. Mullen, Chair

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ACKNOWLEDGMENTS

The following individuals are thanked for their assistance with and contributions to this Report and the various appendices:

Androscoggin County Sheriff Eric Sampson, Aroostook County Sheriff Darrell Crandall, Kennebec County Sheriff Randall Liberty, Lincoln County Sheriff Todd Brackett, Penobscot County Sheriff Troy Morton, Sagadahoc County Sheriff Joel Merry, and Waldo County Sheriff Jeffrey Trafton; Captain Marsha Alexander, Acting Sheriff Ryan Reardon, Staff Sgt. Kyle Black, Officer Kurt Karlsson and Officer Corey Goodchild at Kennebec County Jail; Craig Clossey and Officer Shanna Morrison at Aroostook County Jail; Col. Mark Westrum, Sgt. Kyle Canada, and Robin Ford at Two Bridges Regional Jail; Captain Jeffrey Chute and Sgt. Wayne Feldman at Androscoggin County Jail; Captain Richard Clukey and Lt. Keith Hotaling at Penobscot County Jail; Raymond Porter at Waldo County Jail; Matt Howe and Madhav Rallapalli with the Judicial Branch Office of Information Technology; Supreme Judicial Court Justice Jeffrey Hjelm; Laura O'Hanlon, Esq., Chief of Court Management; Anne Jordan, Esq., Manager of Criminal Process and Specialty Dockets; Dan Sorrells, Process Auditor; Claire Bell, Court Management Analyst; Carmel Rubin, Court Communications Manager; Ellen Hjelm, Director of Budget and Accounting; Rose Everitt, Esq., Chief Law Clerk; Tavish Brown and Stephanie Littlehale, Interns to Chief Justice Saufley of the Supreme Judicial Court; and Elizabeth Simoni and her staff at Maine Pretrial Services.

INTRODUCTION

Would the reader please answer "True" or "False" to the following statements:

1. Seventy percent (70%) of the public supports the use of pretrial risk assessment tools vs. the use of cash bail, with only twelve percent (12%) of the public opposed.

2. There is no difference in terms of subsequent appearance rates at court between defendants who are released on unsecured bail vs. those released on secured bail.

3. There is no difference between defendants who are released on unsecured bail vs. those released on secured bail in terms of whether a defendant commits a subsequent offense while released on bail.

4. The use of "court date reminders" are more effective in reducing the number of defendants who fail to appear for a court date than the use of secured bail.

5. The setting of traditional money-based bail leads to unnecessary pretrial detention of low risk defendants and the unwise release of many high risk defendants who can afford to post cash bail.

6. Each year nearly 12 million people are booked into jails nationwide, with more than 60% of the defendants held in county jails in pretrial status.

7. The Restorative Justice Project for the Midcoast located in Belfast, Maine just celebrated its 10th anniversary.

8. The State of Maine has nearly 1,100 laws on the books (civil and criminal offenses) that require a mandatory minimum fine be imposed upon plea or conviction, regardless of the person's ability to pay a fine and/or their history or lack of same with the court system.

9. The average cost to house a person at a county jail is over $100.00 per day.

10. The United States Supreme Court has stated, “In our society liberty is the norm, and detention prior to trial or without trial is the carefully limited exception.”

11. All three branches of our state government recognize that there is an immediate and critical need to update, renovate, and improve the criminal justice systems and procedures affecting pretrial incarceration and restrictions.

The answer for each statement posed above is “true.” The reader of this report will learn the answers to many more questions that need to be answered if the leaders of our three branches of government are to take the necessary steps to “reduce the human and financial costs of pretrial incarceration” while at the same time not compromising “individual or community safety or the integrity of the criminal justice system”, as the Charter for this Task Force stated.

As Chair of the Task Force I want to thank each member for his or her hard work and effort in making this Report a reality. I also want to especially thank Justice William Anderson and Justice Joyce Wheeler for heading up the Fines and Community Diversion subcommittees respectively. Finally, an extra special thanks goes to Anne Jordan, Esq. for her tireless efforts in not only heading up the Pretrial Bail and Bail Conditions subcommittee but also by being the primary draftsperson of this Report.

Robert E. Mullen, Chair
Maine Superior Court

EXECUTIVE SUMMARY

By an order dated May 1, 2015 (*See* Appendix A) Chief Justice Leigh Saufley, in cooperation with Governor Paul R. LePage, Senate President Michael Thibodeau, Speaker of the House Mark Eves and with the support of Attorney General Janet Mills, established an intergovernmental task force to study and update, innovate and improve the criminal justice systems and procedures affecting pretrial incarceration and restrictions in Maine. Specifically, the Task Force was charged with presenting proposals for improvements to the leaders of the three branches of government in time to allow action on the proposals during the Second Regular Session of the 127th Maine Legislature.

The primary responsibilities of the Task Force were to review relevant and current national and state research and data[1], address existing resources, procedures and programs and make recommendations that will reduce the human and financial costs of pretrial incarceration and restrictions. In doing so, the Task Force was charged with setting forth proposals in a manner that would not compromise individual or community safety or the integrity of the criminal justice system.

The first meeting of the Pretrial Justice Reform Task Force was held on June 12, 2015. Following that initial meeting, the Chair, Superior Court Justice Robert Mullen, divided the large group into three subcommittees: 1. Pretrial bail and bail conditions; 2. Fines; and 3. Community Diversion programs. Each group was charged with meeting and analyzing the available research and data, delineating the

[1] While Maine has consistently had the lowest incarceration rate in the nation on a per capita basis at 189 adults per 100,000 population, compared to the national average of 612 adults per 100,000 population (Bureau of Justice Statistics, National Prisoner Statistics 2014, published September 2015 at BJS.gov), the pretrial incarceration rates of individuals in Maine has been steadily increasing over the last five years. In FY2010, the number of pre-trial inmates in Maine's county jails averaged 57.7% of the total county jail population. That number increased to 62.21% in FY 2014. In 7 of the 15 county jails in December 2014, the pretrial population exceeded 70% of all inmates. (Maine Board of Corrections Report 2014, available at Maine.gov/DOC).

problems and concerns in their respective areas and then designing proposed changes to the criminal justice system. Each group met multiple times over the summer and fall and prepared proposals. The full task force then reviewed these proposals on November 6, 2015. Votes were taken on each proposal. For those members who were unable to attend, a summary of each item and a paper absentee ballot were sent to them to complete. (*See* Appendix G for a summary of each proposal and the vote of the Task Force).

The Task Force found that the pretrial incarceration rate has increased steadily over the last five years in Maine with some county jail facilities experiencing pretrial populations of over 80% of the total inmate population in late 2014. (*See* Appendix H). Research showed that there was not a single independent reason for this increase. The numbers reflected that 46% of the inmates booked were booked solely for new criminal offenses. The remaining individuals were booked for new criminal conduct and/or one or more of multiple additional reasons, including warrants for failure to appear in court, warrants for failure to appear on a hearing concerning an overdue fine payment, warrants for failure to pay restitution, and motions for probation revocations or to revoke a previously set bail. (*See* Appendix C; A Limited Study of Pretrial Inmates in Five Maine County Jails).[2]

The Task Force considered and voted on twenty-nine recommendations submitted by the different subcommittees. The committee as a whole rejected three proposals and accepted twenty-six recommendations. Two of the accepted recommendations had very close votes while the remaining recommendations were all approved by unanimous, or nearly unanimous, votes of the committee as a whole. One of those initially rejected was approved after amendment. A discussion of each recommendation is set out in detail in the body of this report, while a summary of each recommendation and the vote total is attached as Appendix G.

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[2] The five jails studied were Androscoggin, Kennebec, Penobscot, Two Bridges (Lincoln, Sagadahoc and Waldo), and Aroostook. 1,556 inmates' files for bookings in the month of April 2015 were reviewed. The Committee also had available to them a study conducted in 2007 of the pretrial inmate population in Cumberland County. (*See* Appendix C and Appendix I; Muskie School-Maine Statistical Analysis Center- Cumberland County Jail 2005 Pre-Arraignments study.)

Of these proposals, ten involved statute changes, three proposed additional in-depth study of ongoing concerns, six involved further training for bail commissioners, law enforcement, judges, jail staff and/or attorneys, while four involved changes to internal Judicial Branch policies and procedures. One suggested expansion of current public service programs by county government or non-profit organizations. Five of these proposals will require some minor additional amounts of state funding (estimated at $20,000/year or less) while six would require substantial additional state funding to carry out (between $20,000- $1,600,000). A cost estimate for expansion of the public service programs was not available. One proposal holds the potential for significant decreases in revenue collected from fines.

While there may be Federal or private sector grant funds available to initially support these proposed changes, such funding is competitive in nature, is not guaranteed and usually carries with it a requirement that alternative permanent funding be available to sustain the program.

One proposal, that of increasing the amount of overdue fines due before a warrant can be issued, holds the potential for decreases in revenue collected from fines. The dollar amount of this decrease unknown.[3]

[3] In addition to fines collected when a warrant for failure to appear for a court hearing on an overdue fine or restitution is executed, the Judicial Branch, in cooperation with the State of Maine Bureau of Taxation, collects overdue monies from income tax refund offsets. In tax year 2014, $405,725.87 in tax offsets were applied to outstanding traffic tickets while $456,779.92 in tax offsets were applied to outstanding fines, counsel fees, or civil mediation fees. (E-mail of Natasha Jensen, Collections Coordinator, Maine Judicial Branch, December 8, 2015).

TASK FORCE PROCESS AND METHODOLOGY

By an order dated May 1, 2015, Chief Justice Saufley established an intergovernmental task force on pretrial justice reform. Thirty-four members from the three branches of state government as well as members of the public with expertise in pretrial justice matters were appointed. Of these members, seven represented the Judicial Branch, seven were from the Legislature and four members represented the Executive Branch. Sixteen were public members representing prosecutors, law enforcement, defense counsel, jail administrators, civil liberty groups, domestic violence and sexual assault victim service providers, and restorative justice associations. (*See* Appendix A; Order Establishing the Task Force and Appendix B; Membership Roster, for the list of individuals who served.)[2]

The Task Force first met on June 12th. Chief Justice Saufley opened the meeting and presented an informational slide show concerning the current state of our pretrial population (*See* Appendix H). At that meeting the purpose and charge were also discussed and each member stated their goals and objectives.

Justice Robert Mullen, Chair, asked each member to sign up for one or more of the three subcommittees: 1. Pretrial Bail and Bail Conditions; 2. Fines; and 3. Pretrial Diversion. Subcommittees were appointed and each group spent the summer researching their respective areas and discussing the problems and potential solutions.

[2] Four initial appointees, Sheriff Randall Liberty, Deputy Commissioner of Corrections Cynthia Brann, Christopher Northrup Esq. and Julia Colpitts, left their respective positions and were replaced by Acting Sheriff Ryan Reardon, Willard Goodwin of the Department of Corrections, Jamesa Drake Esq. for the Maine Association of Criminal Defense Attorneys and Francine Stark, Executive Director of the Maine Coalition to End Domestic Violence. Lt. Col. Darryl Lyons of the Maine National Guard, Robert Ruffner Esq., Larraine Brown from the Restorative Justice Project of the Mid-coast and Margaret Micolichek-RJ4Change-Belfast, were later added to the group.

Current research and position papers from national organizations including the Pretrial Justice Institute, the Laura and John Arnold Foundation, the National Criminal Justice Association, the Department of Justice, the National Association of Pretrial Service Agencies, the National Center for State Courts, the National Association of Criminal Defense Attorneys, the Vera Institute, the National Conference of State Legislatures, the National District Attorney's Association, the Restorative Justice Institute, the Pew Charitable Trust and the National Institute of Corrections were distributed and reviewed.

Maine-based materials, information and studies from the Muskie School of Public Policy, the Restorative Justice Institute of Maine, the Restorative Justice Project of the Mid-coast, the Department of Corrections and the Correctional Alternatives Advisory Committee were reviewed. Additionally, Dan Sorrells of the Maine Judicial Branch produced two studies (*See* Appendix C; Limited Study of Five County Jail Report and Appendix D; Limited Study–Timeframe for Payment of Fines) and law student intern Tavish Brown compiled a comprehensive survey of all statutes in Maine, both civil and criminal, that contained minimum mandatory fines. (*See* Appendix E; Survey of Mandatory Minimum Fines in Titles 7, 12, 17, 17-A, and 29-A and Appendix F; Summary of Minimum Mandatory Fines Across All Titles). Elizabeth Simoni of Maine Pretrial Services provided statistics on the number of persons served by her agency as well as the nature and availability of pretrial service programs and the success rates of persons on Maine Pretrial Service Contracts across the state.

The full Task Force met again on September 25, 2015 and each committee delivered interim reports. Issues of concern were discussed and it was agreed that a final meeting, to formally consider and vote on each recommendation, would occur on November 6, 2015. Subcommittees continued to meet and additional recommendations were compiled and forwarded for inclusion on the agenda for the 6th.

The full task force met on November 6, 2015. Each recommendation (*See* Appendix G; Vote Tally) was brought forward, discussed and voted on. Absentee ballots were sent to those members who were unable to attend. From the meeting vote tally, the absentee

ballots received and earlier documents and the various subcommittee reports, this report was compiled.

TASK FORCE CONCLUSIONS

In our society, liberty is the norm, and detention prior to trial or without trial is the carefully limited exception. *United States v. Salerno*, 481 U.S. 739, 755 (1987).

Maine has the lowest violent crime rate and the lowest overall incarceration rate in the nation. (*See* Appendix H and Executive Summary at footnote 1). With that said, however, Maine faces a serious problem with the rate of pretrial incarceration populations in its county jails. Each year for the past five years, there has been a steady increase in the number of pretrial individuals being held in our county jails. (*See* Appendix H at pages 7-8). In late 2014, at eight of the fifteen county jails, the pretrial population exceeded 70%. In two, Androscoggin and Oxford, the pretrial population was more than 80% of the total jail population. (Appendix H at page 8).

A number of the jails, including Kennebec, Penobscot and Androscoggin, have an inmate population that exceeds 100% of their respective capacity. This leads to the "boarding out" of inmates from an overcrowded jail to a less crowded jail at a great expense to the taxpayers. It also creates complex financial, personnel, programming and personal problems for the Sheriffs, the Court system, defense counsel, service providers and the individual defendants and their families.

There is no one single reason for Maine's pretrial population numbers. Despite national reports that our nations' jails are disproportionately populated with individuals who are being held simply because they are too poor to pay their fines, a study in Maine found that only 14% of the pretrial population were arrested solely on warrants for failure to appear at a court hearing concerning an overdue fine. An additional 9% were booked for failure to appear to pay a fine and another reason (*See* Appendix C at pages 3 and 15). These individuals were held on average for 1.3 days before being released and

none were held for longer than one week. (*See* Appendix C at pages 15-17). Although these are relatively brief stays, the large number of offenders who are arrested for this reason and their constant flow in and out of the jail contributes to overcrowding.

Fifteen percent of all pretrial inmates were booked for an allegation of violation of probation. Sixty-three percent of these were also booked for other reasons such as unpaid fines or restitution, new criminal charges or failure to appear. (*See* Appendix C at page 20). Of all inmates booked on an allegation of violation of probation, nearly 87% were held without bail for all or a portion of the time the motion to revoke probation was pending. (*See* Appendix C at page 23). The average length of stay for persons held solely on an allegation of violation of probation was 57.4 days. That number increased to 86 days for those inmates held on both a motion to revoke probation and for an additional booking reasons. (*See* Appendix C at page 20). It was generally agreed that efforts by prosecutors and defense counsel to negotiate a "universal resolution" for multiple pending matters were often directly tied to the length of stay. Certain portions of the probation revocation laws also contributed to long pretrial stays in these matters.

The remaining number of inmates held for a pretrial reason were related to allegations of new criminal conduct (65%), failure to appear for a court hearing (11%), motions to revoke bail (6%), failure to appear for unpaid restitution (4%) and other assorted reasons (5%). Each of these reasons carries specific challenges and many have statutory limitations and restrictions on the availability of bail. (*See* 15 M.R.S. §§ 1023(4) and 1092(4).)

The Task Force agreed that Maine's current bail laws need to be amended. Ten specific statutory changes submitted by the various subcommittees were reviewed and approved for submission in this report. The Task Force also agreed that additional training must be provided and that the Judicial Branch should implement changes to four internal procedures. (*See* Appendix G; Vote Tally on all recommendations).

The Task Force also agreed that the State should undertake further in-depth studies to determine whether Maine should significantly amend the Bail Code to eliminate cash bail in many cases. A separate study to determine whether restorative justice programs should be implemented statewide should be undertaken. The Judicial Branch should undertake a separate internal study to improve fine collection policies and procedures and to provide for uniform methods of enforcement and collection.

Finally, the Task Force agreed that the State should provide funding to pay bail commissioner fees. At the present time, bail commissioners are not state employees and receive no wages or fees from the state to execute bail bonds. Instead each Defendant pays a fee directly to the bail commissioner. Committee members felt that such a fund would reduce delay, provide fairness to all and eliminate the perception that bail decisions are made for reasons not set out in the Bail Code.

TASK FORCE RECOMMENDATIONS

A. Statutory Proposals

The Task Force makes the following recommendations:

1. 15 M.R.S. § 1025-A should be amended to allow a properly authorized and trained county jail employee to prepare and execute a PR or unsecured bail bond when a bail commissioner orders such a bail.

Currently 15 M.R.S. § 1025-A states *"**If a court*** (emphasis added) *issues an order that a defendant in custody be released, pending trial, on personal recognizance or upon execution of an unsecured appearance bond, whether or not accompanied by one or more conditions under section 1026, subsection 3, an employee of the county jail having custody of the defendant, if authorized to do so by the sheriff, may, without fee, prepare the personal recognizance or bond and take the acknowledgment of the defendant."*

The committee recommends inserting the phrase "or a bail commissioner" after the phrase "If a Court" in the first line of 15 M.R.S. § 1025-A. The proposed law would then read:

> "If a court or a bail commissioner issues an order that a defendant in custody be released, pending trial, on personal recognizance or upon execution of an unsecured appearance bond, whether or not accompanied by one or more conditions under section 1026, subsection 3, an employee of the county jail having custody of the defendant, if authorized to do so by the sheriff, may, without fee, prepare the personal recognizance or bond and take the acknowledgment of the defendant."

The Task Force agreed that there is often a delay in releasing an individual on a personal recognizance or unsecured bond due to the need for either a bail commissioner to be contacted and then travel to the jail or for a defendant to make the necessary arrangements to secure

the bail commissioner's fee. The execution of such bonds by properly trained and approved jail employees would speed up the process and reduce jail overcrowding.

2. 15 M.R.S. § 1026(3), Standards for Release on Preconviction Bail, should be amended to include specific language addressing: 1. Refraining from the possession of alcohol, or illegal drugs; 2. A showing of a demonstrated need for the imposition of the condition; and 3. A specific reference to the type of search.

Currently 15 M.R.S. § 1026(3) does not include the words "possession" before the words "alcohol" or "illegal" before the word drugs although these conditions are commonly imposed bail conditions. The Task Force agreed that there should be a requirement of a demonstrated need for the imposition of these types of conditions and a specific reference to the type of search requirements written into the statute.

Too often conditions are imposed that are not directly related to the case at hand or that permit too much interpretation of the meaning of or restrictions on the individual. This often leads to unnecessary arrests based on a violation of conditions of bail. (*See* Appendix C at pages 12-14, where is was determined that the Class E crime of Violation of Conditions of Release was, by far, the most frequent reason for a new booking at the jails). While the Task Force agreed that there are cases where specific search requirements should be allowed, the majority felt that search requirements, and especially those allowing for random searches, were imposed too often.

The Task Force recommends that the following language be added to 15 M.R.S. § 1026:

> (9) Refrain from the possession, use or excessive use of alcohol and from any use of illegal drugs. A condition under this paragraph may be imposed only upon the presentation to the judicial officer of specific facts demonstrating the need for such condition:

(9-A) Submit to either a) random search for possession or use prohibited by a condition imposed under paragraph (8) or (9) or b) search upon articulable suspicion for possession or use prohibited by a condition imposed under paragraph (8) or (9);

3. 15 M.R.S. § 1051, Post Conviction Bail, should be amended to set out the standards for bail with respect to a motion to revoke probation.

The current statute on post conviction bail (15 M.R.S. § 1051) as it relates to the availability of bail, and the standard of proof needed to set bail in post conviction matters where a probation violation is alleged, is not clear. The statute does specifically address post conviction bail pending sentencing or an appeal but does not specifically address the availability of bail in those situations where there is an allegation of a probation violation. It also fails to address the standards to be employed by a jurist when determining bail in a probation revocation matter. The Task Force recommends the following language be added to the statute:

2-A Violation of Probation: Standards. This subsection governs bail with respect to a motion to revoke probation.

A. A judge or justice may deny or grant bail.

B. In determining whether to admit the defendant to bail, and if so, the kind and amount of bail, the judge or justice shall consider the nature and circumstances of the crime for which the defendant was sentenced to probation, the nature and circumstances of the alleged violation and any record of prior violations of probation as well as the factors relevant to the setting of preconviction bail listed in section 1026.

4. 17-A M.R.S. § 1205-C, Initial Appearance on Probation Violation, should be amended to reference the proposed change above.

Current law reference factors from 15 M.R.S. § 1051(2), which are the general standards for release on bail post conviction. If the Legislature chooses to adopt recommendation #3 above, this statute

would need to be amended by striking the current language that references 15 M.R.S. § 1051(2)-(3) and instead inserting a reference to the new proposed standards under proposed section 15 M.R.S. § 1051(2-A). The changes to implement the new law would read as follows:

> § 1205-C. Initial proceedings on probation violation
> 5. In deciding whether to set bail under this section and in setting the kind and amount of that bail, the court must be guided by the standards of post-conviction bail in Title 15, section 1051, subsection 2-A.

5. The State should eliminate the availability of unsecured bonds for bail.

Currently 15 M.R.S. § 1026(2-A) permits a judicial officer to release a person on an unsecured bail bond. That is a promise by the person to pay the State a set amount of money if they fail to appear. In reality there are rarely, if ever, actions brought to enforce the unsecured bond when someone fails to appear. The availability of this type of bail is unnecessary. The statutes that currently address or mention the phrase unsecured bail are as follows:

> -15 M.R.S. § 1026(1)(A), (C), Standards for release for crime bailable as of right preconviction;
>
> -15 M.R.S. § 1026(2-A), Release on personal recognizance or unsecured appearance bond.

Both of these statutes would need to strike the phrase "unsecured bail" from both the titles and/or the statutes themselves. The current Maine Bail Bond (Form CR-001) and the Maine Conditions of Release (Form CR-002) would also have to be revised by striking those sections of the bond that address unsecured bail.

6. 15 M.R.S. § 1073-A(1), Precondition to Forfeiture of Cash or Other Property of a Surety if a Defendant Violates a Condition of Release: Notice, should be repealed.

Currently 15 M.R.S. § 1072 requires a surety (a person who posts either real estate or their own cash as bail for a defendant) to be responsible for the Defendant's appearance and compliance with all bail conditions. 15 M.R.S. § 1072-A also requires that prior to undertaking this responsibility to act as a surety for the defendant, the surety must be provided a copy of the written release order, advised of the appearance requirement and advised of each of the conditions of release pertaining to the defendant. They must also be advised of the consequences to the surety and his or her property of the defendant fails to appear as required or violates any condition of release.

15 M.R.S. § 1073-A(1) provides that in the event of a violation or default, the 3rd party surety must have the bond released or all of his or her money returned unless the person had acted as surety before for this defendant and the defendant previously failed to comply with the conditions. The process for this is time consuming and often leaves the Defendant who has violated bail free to be out in the community without appropriate conditions. A majority of the Task Force felt that the "one free pass" in the statute was not appropriate.

The Task Force recommends that 15 M.R.S. § 1073-A, be repealed in its' entirety.

7. 15 M.R.S. § 1023(4), Limitation on Authority of Bail Commissioners to Set Bail, should be amended to add a restriction that bail commissioners should not be allowed to set the condition of random search and seizure for drugs or alcohol.

Currently bail commissioners are permitted to include in a bail condition the requirement that the Defendant submit to either a random search or an articulable suspicion search as part of bail. The searches can be of the Defendant's person, car or home. The searches can be for a wide variety of matters including guns, drugs, alcohol or the presence of persons to whom the Defendant is prohibited from having contact. If a violation is discovered the Defendant is arrested and generally held at

the jail without bail until a judge can set bail. Violations of Condition of Release charges were by far the most common new charge against persons who were incarcerated. (*See* Appendix C at page14).

The Task Force felt that as relates to random searches for drugs or alcohol**,** only judges should set that condition. It was believed that restricting this search provision would cut down on the number of individuals arrested for Violation of Conditions of Release and would reduce the number of individuals held in the county jail on such charges.

The Task Force recommends that 15 M.R.S. § 1023(4) be amended by adding the following provision:

> *F. Notwithstanding section 1026, subsection 3, paragraph 9-A, impose a condition of preconviction bail that a defendant submit to random search with respect to a prohibition on the possession, use, or excessive use of alcohol or illegal drugs.*

8. Title 17-A M.R.S. § 1205-C(4), Initial Appearance on Probation Violation, should be amended by adding language that if a person is committed without bail pending a probation revocation hearing, that hearing date should be set no later than 45 days from the date of the initial appearance unless other wise ordered by the court.

Currently, 17-A M.R.S. § 1205-C, Commencement of Probation Revocation Proceedings by Arrest, contains no time requirements by which a probation revocation hearing must be held after the defendant's initial appearance on the allegation. The Limited Study on Pretrial Jail Inmates found that the average length of stay for inmates held solely on probation revocations was nearly two months (57.4 days). (*See* Appendix C at page 20). For those inmates who also had other reasons for which they were held, the average increased to 86 days. In some counties, inmates were held for more than six months before their cases were resolved. (*See* Appendix C at pages 21-22).

The Task Force recommends that the following language be added to Title 17-A M.R.S. § 1205-C(4) Initial Appearance on Probation Violation:

> 4. At the initial appearance, the court shall advise the probationer of the contents of the motion, the right to a hearing on the motion, the right to be represented by counsel at a hearing and the right to appointed counsel. If the probationer cannot afford counsel, the court shall appoint counsel for the probationer. The court shall call upon the probationer to admit or deny the alleged violation. If the probationer refuses to admit or deny, a denial must be entered. In the case of a denial, the court shall set the motion for hearing and may commit the person, with or without bail, pending hearing. <u>If the person is committed without bail pending hearing, the date of the hearing shall be set no later than 45 days from the date of the initial appearance unless otherwise ordered by the court.</u>

9. Title 15 M.R.S. § 1023(4)(E) should be amended to require that in all cases where a Defendant has been arrested on a domestic violence charge, and there is a condition of no contact with the alleged victim, the arraignment should take place no later than 5 weeks from the date of the bail order.

Currently there is nothing in Maine's Bail Code that specifically addresses the length of time between an arrest for a domestic violence charge and arraignment. Since 2001, bail commissioners have been following a Judicial Branch general policy to set the arraignment date no later than 4 weeks from the date of the offense for which the person is being bailed. While this timeframe generally works, there are occasions, especially in rural courts, where it is impossible to arraign a defendant within 4 weeks. The Task Force agreed that the general policy should be incorporated into statute by adding the following to 15 M.R.S. § 1023(4)(E):

> E. A bail commissioner may not set preconviction bail using a condition of release not included in every order for pretrial release without specifying a court date within

8 weeks of the date of the bail order. For crimes involving allegations of domestic violence, the court date shall be within 5 weeks of the date of the bail order.

10. Title 17-A M.R.S. § 1302, Criteria for Imposing Fines, should be amended to allow a Court to waive minimum mandatory fines in certain limited circumstances. [3]

Maine law currently provides for minimum mandatory fines that cannot be suspended in 147 different offenses contained in Titles 7, 12, 17, 17-A, and 29-A. (*See* Appendix E). The plethora of mandatory fines interferes with the Court's ability to consider an individual's ability to pay a fine as required by 17-A M.R.S. § 1302. The proliferation of mandatory minimum fines has caused courts to impose fines that offenders have little or no hope of ever paying. Many of these minimum mandatory offenses contribute to the large numbers of persons arrested for failure to appear for a hearing on allegations of failure to pay a fine. (*See* Appendix C at pages 15-19).

In reviewing the incarceration statistics in Appendix C, the three offenses carrying mandatory minimum fines (other than operating under the influence) that most frequently result in incarceration of the offender for nonpayment of the fine are operating after suspension, drug possession and assault.

The Legislature should enact language that permits the sentencing judge to impose a fine that is less than the mandatory minimum in those situations where an individual is truly unable to pay a fine. This would be similar to a judicially imposed "safety valve". The proposal set out below applies to the minimum mandatory fines for assault, drug offenses and for operating after suspension. It does not apply to operating under the influence charges. The proposed amendment to 17-A M.R.S. § 1302 is as follows:

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[3] In 2014, 25,777 new Failure To Appear for Failure to Pay Fines warrants were issued.

In 2014, 12,061 Failure to Appear for Failure to Pay Fines warrants were executed. Some of these warrants were from 2014, other were from previous years.

3. Notwithstanding any other provision of law, the court may suspend all or a portion of a minimum fine under section 1301(6) or under section 207(3) or under 29-A M.R.S. § 2412-A(3), and the court may impose a fine other than the mandatory fine, if the court finds by a preponderance of the evidence that there are exceptional circumstances that justify imposition of a lesser financial penalty. In making a finding of exceptional circumstances, the court may consider:

1. Reliable evidence of financial hardship on the part of the offender and the offender's family and dependents;
2. Reliable evidence of special needs of the offender and/or his/her family and dependents;
3. Reliable evidence of the offender's income and future earning capacity and the offender's assets and financial resources from whatever source;
4. Reliable evidence regarding any pecuniary gain derived from the commission of the offense;
5. The impact of imposition of the mandatory fine on the offender's reasonable ability to pay restitution under ch. 54.

B. Process Changes and Proposals

The Task Force makes the following recommendations:

1. The Judicial Branch should raise the minimum dollar threshold for issuing a warrant for Failure to Appear for an Unpaid Fine hearing from the current level of $25 to $100.

Currently, the Judicial Branch internal policy requires that a warrant be issued for an Unpaid Fine of $25 or more. The issuance of the warrant only occurs if:

1. The defendant has failed to pay the fine as ordered by the court;
2. The fine is more than 30 days overdue;

3. The Defendant has been sent a demand letter that requires him/her to pay the fine or appear in Court to explain why the fine is not paid; and
4. The Defendant has failed to appear for that hearing. 17-A M.R.S. § 1304.

As previously noted, in 2014 the Court issued 25,777 new warrants for Failure to Appear for a Hearing on an Unpaid Fine. The issuance of these warrants and the scheduling of §1304 hearings consume large amounts of clerk and court time. It is also very expensive for law enforcement and the jails to process the 12,000+ persons arrested each year on unpaid fine warrants.

The Task Force believes that the threshold for issuing such warrants should be increased to $100. This would not require any statutory changes but instead would require the members of the bench and the Judicial Branch Finance and Clerk's Offices to amend their practices. It would also require the reprogramming of the Court's computer system (MEJIS) so that demand letters and warrants would only be issued when the over due fine exceeded $100.

2. The criminal justice system should implement/expand public service work programs to pay off fines consistent with 17-A M.R.S. § 1304(3) for Class C, D and E crimes. It should apply only towards those who have demonstrated the most difficulty with paying a fine. The dollar amount credited should be set at the State minimum wage figure.

Offenders who have great difficulty in paying fines should be given the opportunity to perform public service work to avoid the risk of incarceration. Currently, 17-A M.R.S. § 1304(3)(B) authorizes the court to permit an offender to "work off" fines even if there has not been a finding that the failure to pay was unexcused. This provision is limited to locations where the sheriff of the county in which the fine was assessed supervises public service work or contracts with a community confinement agency to do so.

Although it appears that multiple sheriffs wish to offer such supervision, this provision is not in fact being implemented. The Task

Force suggests that this provision for public service work be implemented and expanded to include Class C offenses, provided the sheriff or a community confinement agency supervises it. A source of funding for this expansion of community service work programming proposal was not separately identified.

The Task Force also suggests that the credit for each hour of work should be set at the state minimum wage. The current statute, 17-A M.R.S. § 1304(3)(A)(2), leaves it up to each individual judge to determine the hourly rate that should be applied to the unpaid fine for community service work performed.

The Task Force proposes that the statute be changed by striking the phrase "must receive a credit against the unpaid fine of no less than $25 for every 8 hours of community service work completed which may not exceed one hundred 8-hour days." and replace it with the following language:

> The number of hours of community service work must be specified in the court's order and the offender must receive a credit against the unpaid fine at a rate equal to the current hourly state minimum wage figure.

3. The Judicial Branch should formulate a detailed fine collection procedure throughout the state that is standard and uniformly applied.

Currently the methods for collections, the frequency of and the schedules for fine hearings and the sanctions/payment plans imposed for failure to pay a fine vary greatly from courthouse to courthouse. The Task Force suggests that the Judicial Branch establish uniform systems, protocols and policies for the collection of fines throughout the state. In standardizing the procedures, the relevant statutory provisions may need to be simplified by amendment to reflect best procedures. The standard fine payment order may also need to be simplified so that a person given time to pay a fine could more easily understand the procedures.

4. The Judicial Branch should create a mechanism, and provide training on that mechanism, to discourage the imposition of "going rate" fines. Instead fines should be imposed with the requirements of 17-A M.R.S. § 1302(1) in mind.

Based on the premise that fewer people would default in paying fines if they could afford to pay them, courts should be cognizant of the requirements of 17-A M.R.S § 1302(1) in setting the amount of the fine.

17-A M.R.S. § 1302(1) states: *In determining the amount of a fine, unless the fine amount is mandatory, and in determining the method of payment of a fine, the court shall take into account the present and future financial capacity of the offender to pay the fine and the nature of the financial burden that payment of the fine will impose on the offender or a dependent of the offender, if any.*

One impediment to meeting the goal of considering the resources of the offender in setting fines is that there is an informal "going rate" used by prosecutors and judges in many courts in setting fines for common offenses such as shoplifting. This practice of imposing the usual "going rate" fails to take into account the requirements of 17-A M.R.S. § 1302(1). While it may be difficult to enact immediate dramatic changes to this practice, the Task Force felt that the Judicial Branch should create a mechanism to discourage the imposition of "going rate fines. This could be addressed through training at judges' administrative week or at the biennial judicial college.

5. There should be established a statewide fund from which bail commissioner fees are paid.

Bail commissioners are not state employees and draw no state salary or benefits for their work. Instead, the person being bailed pays a bail commissioner a fee of up to $60 per arrest. 15 M.R.S. § 1023(5). A Sheriff is permitted to create a fund to pay all or a portion of the bail commissioner fees of persons unable to pay. 15 M.R.S. § 1023(5). Currently, Kennebec County is the only county with an active bail commissioner fee fund.

Each bail commissioner is also required to perform "pro bono" bails. 15 M.R.S. § 1023(8). There is no set number or percentage of pro bono bails that must be performed by each bail commissioner.

The Task Force believes that Maine law should be amended to create a centralized statewide fund from which bail commissioners could be paid. They would be paid on a flat set fee for each bail occurrence.

The Task Force felt that whether a person is promptly bailed should not depend upon the individual's ability to secure the bail commissioner's fee. Additionally, many members of the bail subcommittee expressed the concern that Defendants do not currently pay for the salaries for administrative functions of employees who perform other pretrial functions and that the same rule should apply to bail commissioners.

The Task Force produced a rough estimate of $1,600,000/year for this new process.

6. The current Bail Bond form (CR-001) and Condition of Release form (CR-002) should be revised to separate out alcoholic beverages, illegal drugs or dangerous weapons so that only those elements that are warranted for a particular case are ordered as a bail condition.

Currently, Maine's Bail Bonds and Condition of Release forms are single paged carbon copy paper documents. It is the strongly encouraged policy of the Judicial Branch to keep these forms to a single page.

However, due to space limitations, the forms combine various conditions into single items. (*See* Appendix J). This results in multiple conditions being combined into one bail or release condition even when portions of the condition are not applicable or appropriate for the situation. For example, an individual may be under arrest for an OUI charge with a high blood alcohol test. The Court or bail commissioner may feel it is appropriate to impose a condition of no excessive consumption of alcohol or no driving after consuming an excessive

amount of alcohol. However, due to the current form design, and limits of the Court's computer system, the judge or bail commissioner is forced to check off the entire condition even if there are provisions in the condition that do not apply to the case.

The Task Force feels that the current bail bond and conditions of release form should be revised to separate out alcoholic beverages, illegal drugs or dangerous weapons so that only those conditions that are relevant to the particular case are ordered as a bail condition. The Judicial Branch could absorb costs for these revisions.

7. Adequate state funding should be provided to insure consistently available statewide pretrial supervision in the community.

15 M.R.S. § 1026(3)(A)(1) currently provides that a court may order an individual to submit to the supervision of an outside community agency, and to abide by the conditions of supervision imposed, in order to be released on bail. Usually, these bail supervision contracts allow an individual to be released without the necessity of posting cash or surety bail.

However, whether an individual is able to secure such community pretrial bail supervision is currently entirely dependent upon which County the defendant resides in. Some counties have vigorous and very active full service pretrial bail supervision services. Other counties have more limited programs while still others have no programs at all. This variation is entirely dependent upon whether the local county commissioners choose to fund such services in their annual budget.

The Task Force feels that adequate STATE funding should be provided to ensure that there is a consistently available pretrial services program statewide. Whether or not someone is released on a pretrial supervision contract should not be dependent upon their place of residence or the availability of such services in their community.

C. Additional Training

The Task Force makes the following recommendations:

1. Regular State funding should be provided each year so that mandatory in-person bail commissioner training can occur. Estimated cost is $5,000-$6,000 per year.

Currently 15 M.R.S. § 1023(7) provides that as a condition of appointment and continued service, all bail commissioners must successfully complete training within one year of appointment. The statute also provides that the Chief Judge of the District Court may establish a continuing education program.

Continuing education for bail commissioners is currently not funded in the State budget but is generally dependent upon securing grant funds. Yearly mandatory training should be provided. Potential topics that should be covered include:

-New laws;
-Detailed training on the Violation of Conditions of Release law;
-Additional training on when a bail commissioner can, and cannot set bail;
-Bail commissioner discretion ;
-Use of evidence based risk assessment factors; and
-Factors to determine if, and when, a search condition should be imposed.

The Task Force suggests that the State Budget include an annual allocation of $5,000-$6,000 to pay for mandatory in-person bail commissioner training.

2. Law Enforcement Officers need more training on the Violation of Conditions of Release (VCR) law and the role of officer discretion in deciding whether to arrest or summons for a VCR violation.

Currently, under state law, a law enforcement officer has the discretion to either summons or arrest for most VCR violations. Individual departments may have more specific policies. The decision to summons or arrest varies widely from police agency to police agency.

Often, the decision to summons an individual versus arresting the individual will depend in large part upon the distance from the place of arrest to the County Jail, the pending calls for service load, the number of officers on duty at the time who are available to answer calls while the arresting officer is transporting the individual to jail and even the weather. These factors, while important for practical policing purposes, should not be determinative of whether or not a person is summonsed or arrested under the Bail Code.

The Task Force recommends that law enforcement officers receive detailed additional training on the purposes and requirements of the Bail Code as well as officer discretion and decision-making in this area. Police agencies should review their current policies and procedures to ensure that only those persons who need to be confined under the provisions of the Bail Code are jailed. Increased sensitivity and awareness to these concerns could result in fewer people being transported to and held at the jail for minor offenses. Costs for providing such training could be absorbed by being scheduled into the Maine Criminal Justice Academy's annual mandatory training.

3. State funding should be provided for, and standardized training materials developed and delivered to, prosecutors, judges, lawyers of the day and defense counsel on conditions of bail and the use of bail conditions in compliance with 15 M.R.S. § 1002.

15 M.R.S. § 1002 provides that bail be set for a defendant in order to reasonably ensure the appearance of the defendant as required, to otherwise reasonably insure the integrity of the judicial process and, when applicable, to reasonably ensure the safety of others in the community. It is also the purpose and intent of the code that the judicial officer consider the lest restrictive release alternative that will reasonably ensure the attendance of the defendant, ensure the integrity of the process and ensure that the defendant will, while out on bail, refrain from committing new crimes.

The Task Force feels that there are great variations in knowledge of and use of the provisions of § 1002 in setting and/or amending bail conditions across the state. Depending upon where a defendant commits a crime, the type of bail, the amount and the conditions

imposed for the same crime varies widely. Statewide consistent training should be provided. Costs for such training would vary depending upon the method and timing of delivery. A rough estimate would be approximately $20,000 depending upon the location, instructor costs and materials prepared and presented.

4. There should be established and implemented a one-day statewide educational forum on Community based diversion programs.

In the past ten or more years, numerous community-based restorative justice and diversion programs have developed across the nation and in Maine. Studies have shown that such programs reduce crime, protect public safety, spend resources wisely, increase community support for rehabilitation of individuals caught up in the criminal justice system and lead to greater satisfaction for crime victims. However, those professionals employed in the Criminal Justice system know little about these programs.

The Task Force recommends that there should be established, an implemented, a one-day statewide educational forum on Community based diversion and restorative justice programs. This forum should educate attendees on the various state, national and international programs, the approaches taken by the programs and the effects such programs have on defendants, victims and their communities. Costs for such a forum could exceed $20,000-$25,000 depending upon the location of the forum, number of attendees, speaker fees and travel costs and room rental.

D. Further Studies Required

The Task Force recommends that that following areas require further study:

1. State funding should be provided to allow for the independent study of and validation of the pretrial risk assessment tool currently being used by Maine Pretrial Services. If validated, this Maine based pretrial risk assessment tool should be adopted for statewide use.

Multiple national and state studies have shown that use of an evidence based, validated pretrial risk assessment is a more reliable predictor of an individual's risk while out on bail than the traditional factors used by courts in setting bail. Risks of flight, risk of committing new crimes and appearance rates, can all be accurately predicated through the use of validated risk assessment tools. The use of such assessment results permits courts to be better informed while making bail decisions.

Currently Maine Pretrial Services uses a risk assessment tool to evaluate the risk of placing an individual on a Pretrial Services Supervision contracts in more than ten counties as permitted by 15 M.R.S. § 1026(3)(A)(1). This tool, while validated in other jurisdictions, has not been scientifically validated for use in Maine.

The Task Force recommends that state funding be provided to allow for the independent validation of this tool in Maine. If the study validates its use for the state of Maine, the tool should be adopted for statewide use. Costs for conducting similar studies in other jurisdictions have ranged from $75,000-$350,000.

2. The Chief Justice should appoint a select committee to study, in depth, the bail systems of other jurisdictions that have completely, or almost completely, eliminated cash bail and instead instituted a system that utilizes risk assessment and pretrial supervision instead.

There are a growing number of jurisdictions (Washington D.C., Kentucky, Indiana, New York) that have dramatically changed their bail system and eliminated or all but eliminated cash bail. Pretrial jail populations in these states have dropped dramatically without a corresponding increase in crime.

Whether or not to adopt a similar type of program in Maine is a complicated and nuanced issue. It needs to be studied in depth, including statute review, site visits and conversations with stakeholders in those jurisdictions, before Maine determines if it should eliminate or greatly reduce the reliance on cash bail. The Task Force, in the limited

timeframe available to deliver this report, simply could not complete this type of study.

The Task Force recommends that Chief Justice Saufley appoint a select committee to study, in depth, the bail systems of other jurisdictions that have completely, or almost completely, eliminated cash bail. The select committee's work should include site reviews and visits, review of validated outcome research, review of evidence based best practices, interviews of key stakeholders and participants and observation of court and pretrial services practices.

Outside funding through private organizations and foundations is reported to be available to support the expenses involved in such a study.

3. The Judicial Branch should further study the possibility of implementing a pilot project that uses pretrial risk assessments results in setting bail.

Currently, in those counties that have a Maine Pretrial Services (MPTS) contract, if an individual is unable to make bail before an initial court appearance, MPTS administers a risk assessment. However, the results of the risk assessment are generally not made available to prosecutors, defense counsel, the lawyer for the day or the Court for use in determining bail and bail conditions.

The Task Force feels that the information gathered by MPTS is valuable and should be made available for use at in-custody bail hearings. As such, the Task Force recommends that the Judicial Branch further study the possible implementation of a pilot project that uses pretrial risk assessment results when setting bail.

4. The Chief Justice should establish an ongoing, statewide task force whose primary purpose is to explore, recommend and assess diversion processes and programs and establish a Justice Diversion system for the State of Maine.

Maine's Judicial Branch rarely, if ever, uses alternative criminal justice adult pretrial diversion programs. Such programs may provide

effective alternatives to traditional criminal justice programs and sentences. The Task Force recommends that Chief Justice Saufley establish an ongoing, statewide task force whose primary purpose and charge is to explore, recommend and assess various diversion programs. If these programs are found to be effective, the Chief justice should establish a diversion system for criminal cases for the State of Maine.

5. The Judicial Branch should conduct a statewide survey of existing Maine Criminal Justice Diversion Programs.

The Judicial Branch should conduct a statewide survey of existing Maine Criminal Justice (both adult and juvenile) diversion programs. The survey should include information on the various programs, what constitutes effective and efficient programming and what policies, practices and innovations may be applicable for statewide use in Maine. The survey should consider all programs and especially those programs that afford individuals charged with a crime the opportunity to appropriately address their behavior without a resulting criminal conviction. The results of the survey should be used to structure programs that leadership in the Judicial Branch feels would be appropriate for use in Maine.

MATTERS CONSIDERED BUT NOT ADOPTED

The Task Force considered, but did not adopt the following matters:

1. The State of Maine Department of Corrections should be provided sufficient funding for staffing to supervise those probationers charged with violations of probation.

Due to high caseloads and insufficient staff, the Department of Corrections (DOC) often relies upon Maine Pretrial Services (MPTS) to supervise persons released on bail on a charge of violation of probation. In 2014, MPTS supervised 266 persons charged with a probation violation.

While many members of the Task Force felt it should be the job of the DOC, not Maine Pretrial Services, to supervise these individuals, and while others felt that the DOC/Criminal Justice system should stop relying upon MPTS to supervise persons charged with a probation violation, the costs to fully staff DOC would be prohibitive. It was estimated that to fully staff DOC to supervise these individuals it would cost approximately $789,467 per year. This figure is based on a nationally recommended caseload of 40 probationers/officer at the fully burdened cost of $ 112,781 per officer/year.

2. The Chief Justice should establish an ongoing, statewide task force whose primary purpose is to explore, recommend and assess specific and named diversion processes and to establish a Justice Diversion system for the State of Maine.

The pretrial diversion subcommittee proposed that the Chief Justice establish a task force to study specific programs to be explored and/or implemented statewide including: 1. The LEAD (Law Enforcement Assisted Diversion) program for drug addicts; 2. A partnership between Maine Pretrial Services and Restorative Justice in Maine to incorporate pre-arraignment screening of defendants and

recommendations for post booking diversion to restorative justice based programs that upon successful completion could result in dismissal or reduction of charges; and 3. In cooperation with the Maine business community, the development of a pretrial loss prevention program to divert first time shoplifting offenders.

While some members of the Task Force felt that such a study and subsequent implementation of the named programs should occur, others felt that the decisions concerning charging, prosecution and sentence resolution should best reside with prosecuting attorneys and the courts, not with outside agencies.

3. The Legislative Branch should carefully study and review the nearly 1,100 different statutes that have mandatory minimum fines.

As evidenced by the summary survey of statutes with mandatory minimum fines (*See* Exhibit F), Maine currently has nearly 1,100 statutes that carry mandatory minimum sentences or fines. These statutes can be found across twenty different Titles and include such varied offenses as Holding an Outdoor Sporting Event Before 3:30 p.m. for fee or donation on Memorial Day to drug cases and financial fraud. While briefly discussed during one of the full task force meetings, it was quickly concluded by those present that the Task Force simply did not have the time, or subject matter expertise, to comb through all the statutes and make recommendations for change. Instead, it was agreed that this task was better left to the members of the respective Legislative Committees.

CONCLUSION

Maine's Constitution provides that ". . . excessive bail shall not be required, nor excessive fines imposed . . .". Me. Const. art. I, § 9. However, in recent months, many issues have been raised as to the systems used in Maine to set bail and incarcerate persons prior to trial.

Maine's County Jails have seen a significant increase in the percentage of inmates who are being held on pretrial status. No single reason can be attributed to this increase. Rather, there are a variety of reasons, and processes, that contribute to the increase.

This report sets forth numerous suggestions for changes that could, if implemented, reduce the human and financial costs of pretrial incarceration and restrictions. In doing so, the Task Force believes these proposals will comply with the Constitutional requirements while not compromising individual or community safety or the integrity of the criminal justice system.

APPENDICES

INTERGOVERNMENTAL
PRETRIAL JUSTICE REFORM TASK FORCE

Type: **Limited Term Task Force**
Established: **May 1, 2015**
Chair: **Justice Robert Mullen**
Report Date: **December 31, 2015**
Reports to: **Chief Justice, Governor, President of the Senate, Speaker of the House**
Completion Date: **July 30, 2016**

I. Background:

The leaders of the three branches of government recognize that there is an immediate and critical need to update, innovate, and improve the criminal justice systems and procedures affecting pretrial incarceration and restrictions.

Accordingly, this Task Force is created by Chief Justice Saufley, in collaboration with Governor LePage, President Thibodeau, and Speaker Eves, and with the support of Attorney General Mills. The Task Force is expected to meet regularly during 2015 and to present proposals for improvements to the leaders of the three branches in time to allow action on the proposals during the Second Regular Session of the 127th Maine Legislature.

II. Goals:

The primary responsibilities of the Task Force are to review the relevant current research and data; address existing resources, procedures, and programs; and make recommendations that

- Will reduce the human and financial costs of pretrial incarceration and restrictions, and
- Will do so without compromising individual or community safety or the integrity of the criminal justice system.

III. Responsibilities:

A. Review of Best Practices

The Task Force will undertake a review of the current state of knowledge regarding evidence-based best practices and innovations in pretrial justice reform regarding

- Reduction and prevention of violence, and the development of programs that provide for improved protection for victims;

- Diversion of nonviolent offenders into community-based programs;
- Creation of supervised, meaningful community service programs;
- Development of improved procedures for fine payment enforcement and alternatives;
- Development of better individualized conditions of pretrial release accompanied by improved oversight and enforcement; and
- Creation and support for case management and diversion programs.

B. Assessments

The Task Force will undertake a review of the current state of knowledge regarding assessments in pretrial justice reform, including, but not limited to, the following:

- The development and implementation of risk assessment tools and objective assessments for suitability-for-release determinations; and
- The assessment of family support systems and the methods by which the system addresses the needs of children and families of alleged offenders.

C. Process Points

The Task Force will assure that attention is given to the following aspects of the pretrial process:

- Proven strategies for protecting the victims—adults, children, and the elderly—of domestic and sexual violence;
- The factors that go into the decision to arrest rather than summons;
- The potential for updating or replacement of the bail commissioner system;
- The process related to alleged violations of conditions of pretrial release;
- The breadth and quality of information available to a bail commissioner or a judge at the point of bail decision;
- The assessment of mental health capacity and risks at each point in the pretrial process;
- The resources available for pretrial diversion programs; and
- The post-conviction process for addressing the payment of fines and restitution.

D. Foundational Components

The Task Force will assure that any proposals address

- Risk of violence;

- Safety of crime victims and the community;
- Risk of flight;
- Potential human trafficking victims;
- Attention to the potential for disproportionate minority contact;
- Availability of meaningful, supervised community service;
- Acceptance of personal responsibility, including the responsibilities of
  - Maintaining sobriety;
  - Complying with court orders; and
  - Focusing on continued employment, participation in job searches, or meaningful community service.

IV. Resources:

The Task Force will be assisted by members of the Administrative Office of the Courts, law school interns, and others as made available through grant funding. The Task Force may seek input, suggestions, and recommendations from individuals and groups outside of the Task Force. The Task Force may invite consultants to its meeting as needed. There is no specific general fund allocation for the Task Force.

V. Membership:

The membership list is attached and may be modified at any time at the discretion of the Chief Justice.

VI. Subcommittees and Voting:

At the discretion of the Chair, the Task Force may designate subcommittees to address specific issues and report back to the Task Force. Subcommittees may invite additional input.

The Task Force will work through consensus. All members of the Task Force, including ex officio members, are voting members. Where consensus is not possible, a vote of the majority of the membership will be sufficient to include a recommendation in the report. A minority report may be included in the final report.

VII. Reporting:

The Task Force will report to the leaders of the three branches of government on or before December 31, 2015. The Report will contain specific recommendations for innovations and improvements, including pilot projects, as well as drafts of any

proposed legislation or rule changes. At a minimum, the Task Force will present proposals for improvements in the following three areas:

1. **Bail:** Risk assessment, conditions and suitability for release, and violence and sexual assault prevention;
2. **Community Based Programs:** Pretrial diversion alternatives, case management and treatment availability, supervised community services programs, and wrap-around programs, including potential funding sources for such programs; and
3. **Fines and Restitution:** Review of enforcement and collection methods, improvement in community service alternatives, and review of sentencing alternatives to fines.

VIII. Meetings:

Meetings will be at the call of the Chair of the Task Force, at times and places designated by the Chair. Meetings will be open to the public.

IX. Task Force Duration:

Unless extended by further order of the Chief Justice, the Task Force will complete its work no later than the conclusion of the Second Regular Session of the 127th Maine Legislature and will cease to exist on July 30, 2016.

Dated: December 31, 2015

Approved by:

/s/
Chief Justice Leigh I. Saufley
Maine Supreme Judicial Court

JUDICIAL BRANCH
PRETRIAL JUSTICE REFORM TASK FORCE
MEMBERSHIP ROSTER

Justice Robert E. Mullen, Chair
Chief Justice of the Superior Court or designee, ex officio
Chief Judge of the District Court or designee, ex officio
Commissioner John E. Morris, or designee, Department of Public Safety
Commissioner Joseph Fitzpatrick, or designee, Department of Corrections
Senator David C. Burns
Senator Stan J. Gerzofsky
Representative Lloyd C. Herrick
Representative Lori Fowle
Representative Mark N. Dion
Representative Henry John Bear, Houlton Band of Maliseet Indians
Representative Matthew Dana, Passamaquoddy Tribe
Attorney General Janet Mills or designee
Stephanie Anderson, Cumberland County District Attorney or designated DA
Robert M. Schwartz, Executive Dir., Maine Chiefs of Police Assoc. or designee
Sheriff Randall A. Liberty, Kennebec County
Timothy Richardson, Hancock County Jail Administrator
Julia Colpitts, Executive Director, Maine Coalition to End Domestic Violence
Elizabeth Saxl, Executive Director, Maine Coalition Against Sexual Assault
Alison Beyea, Executive Director, ACLU of Maine
Rachel Talbot Ross, Director, Maine NAACP
Elizabeth A. Simoni, Executive Director, Maine Pretrial Services
Kelly Dell'Aquila, Director of Services, My Sister's Keeper
Professor Christopher M. Northrop, Chair, MACDL, ex officio
John D. Pelletier, Executive Director, MCILS or designee, ex officio
Anne Jordan, Esq., Judicial Branch Manager of Criminal Process & Specialty Dockets
Patty Kimball, Executive Director, Restorative Justice Institute
SJC Liaison, Associate Justice Ellen A. Gorman

Appendix B

Members of the Pretrial Justice Reform Task Force

Judicial Branch

Justice Jeffrey Hjelm-Maine Supreme Judicial Court-Ex Officio
Justice Robert Mullen-Chair, Maine Superior Court
Chief Justice Roland Cole-Maine Superior Court
Justice William Anderson-Maine Superior Court
Active Retired Justice Joyce Wheeler- Maine Superior Court
Chief Judge Charles Laverdiere-Maine District Court
Anne H. Jordan Esq.-Manager of Criminal Process and Specialty Courts

Legislature

Senator Stan Gerzofsky- (D) -Maine State Senate-Brunswick
Senator David Burns- (R) Maine State Senate- Washington
Representative Mark Dion- (D)-Maine State House of Representatives-Portland
Representative Lloyd Herrick- (R) Maine State House of Representatives-Paris
Representative Lori Fowle- (D) Maine State House of Representatives-Vasselboro
Representative Henry Bear-Maine State House of Representatives-Houlton Band of Maliseet Indians
Representative Matthew Dana II-House of Representatives-Passamaquoddy Tribe

Executive Branch

Lt. Aaron Hayden- Maine State Police representing Public Safety Commissioner Morris
Willard Goodwin- Maine Department of Corrections, Representing Commissioner of Corrections Fitzpatrick
John Pelletier Esq.- Maine Commission on Indigent Legal Defense
Lt. Colonel Darryl Lyons-Maine National Guard

Public Members

Stephanie Anderson Esq.-District Attorney Cumberland County-Representing the Maine Prosecutors Association
Alison Beyea Esq.- Executive Director-American Civil Liberties Union of Maine
Jamesa Drake Esq.- Maine Association of Criminal Defense Attorneys
Robert Ruffner Esq.
Attorney General Janet Mills

Appendix B

Elizabeth Simoni Esq.- Maine Pretrial Services
Francine Stark-Maine Commission to End Domestic Violence
Elizabeth Ward Saxl-Maine Coalition Against Sexual Assault
Chief Richard Rizzo-Brunswick Police Dept. Representing the Maine Chiefs of Police Association
Timothy Richardson- Hancock County Sheriff's Office -Representing the Maine Jail Administrators
Acting Sheriff Ryan Reardon-Kennebec County Sheriff's Department-Representing the Maine Sheriff's Association
Rachel Talbot Ross-NAACP of Maine
Patricia Kimball-Restorative Justice Institute of Maine
Kelly Dell'Aquila-My Sister's Keeper
Larraine Brown-Restorative Justice Project of the Mid-coast
Margaret Micolichek-RJ4Change-Belfast

MAINE JUDICIAL BRANCH

ADMINISTRATIVE OFFICE OF THE COURTS – PROCESS IMPROVEMENT UNIT

A Limited Study of Pretrial Inmates in Five Maine County Jails

Submitted by:
Anne Jordan, Esq.
Criminal Process & Specialty Dockets Manager

Written and prepared by:
Daniel Sorrells
Process Auditor

Date Issued: September 15, 2015

Table of Contents

Acknowledgments

The following individuals are thanked for their assistance with and contributions to this study:

Androscoggin County Sheriff Eric Sampson, Aroostook County Sheriff Darrell Crandall, Kennebec County Sheriff Randall Liberty, Lincoln County Sheriff Todd Brackett, Penobscot County Sheriff Troy Morton, Sagadahoc County Sheriff Joel Merry, and Waldo County Sheriff Jeffrey Trafton; Captain Marsha Alexander, Maj. Ryan Reardon, Staff Sgt. Kyle Black, Officer Kurt Karlsson and Officer Corey Goodchild at Kennebec County Jail; Craig Clossey and Officer Shanna Morrison at Aroostook County Jail; Col. Mark Westrum, Sgt. Kyle Canada, and Robin Ford at Two Bridges Regional Jail; Captain Jeffrey Chute and Sgt. Wayne Feldman at Androscoggin County Jail; Captain Richard Clukey and Lt. Keith Hotaling at Penobscot County Jail; Raymond Porter at Waldo County Jail; Matt Howe and Madhav Rallapalli with the Judicial Branch Office of Information Technology; Justice Jeffrey Hjelm; Justice Robert Mullen; Laura O'Hanlon, Esq., Chief of Court Management; Anne Jordan, Esq., Manager of Criminal Process and Specialty Dockets; Claire Bell and Carmel Rubin with the Judicial Branch Communications Unit; Rose Everitt, Esq., Chief Law Clerk; and Tavish Brown and Stephanie Littlehale, Interns to Chief Justice Saufley of the Supreme Judicial Court.

For questions about this study, please contact
Anne Jordan, Esq., Manager of Criminal Process and Specialty Dockets
at (207) 213-2857 or anne.jordan@courts.maine.gov.

Appendix C

Background and Methodology

From May to August 2015, a limited study was conducted of pretrial inmates at five Maine county jail locations, with the goals of identifying the primary reasons why pretrial inmates are incarcerated and uncovering any trends in incarceration that might assist the Pretrial Justice Reform Task Force.

The final sample consisted of 1,556 pretrial inmates who were incarcerated during the month of April 2015. Each individual was counted a single time, regardless of whether he or she was booked more than once during April, or booked in more than one jail location. The determination of which inmates qualified as "pretrial" was based on the status that was assigned by the jail to each inmate at the time the inmate was booked.

The inmate sample reviewed at each jail was composed of two groups:

1. **All pretrial inmates who were present in the jail on April 1, 2015; and**
2. **All pretrial bookings during the period of April 1, 2015 through April 30, 2015.**

Length of stay statistics in this report are measured in days and only include the time an inmate was held in jail in pretrial status. The length of an inmate's stay was calculated by subtracting the inmate's release date[1] from the inmate's booking date. For those inmates who were still incarcerated at the time of the review, the length of stay was calculated by subtracting the date data was collected from the inmate's booking date. It should be noted that in many of these cases, the actual length of stay will likely be longer than the value used in these analyses.

A Note on Data Collection

Data collection presented some unique challenges, as the quality and type of information collected varied at each jail location. Additionally, three different computer management systems were in use at the five jails. Jail staff had varying abilities to extract data from their computer systems, and the reports available in each system captured different types of data and presented them in different formats. Some jails were able to program reports to capture the information needed for this study, while at other jails, manual searches and data entry had to be conducted for each inmate.

Gaps in jail information were filled as best as possible with a combination of manual searches in the Maine Judicial Information System (MEJIS) and data extracted from MEJIS by Office of Information Technology programmers. However, not all gaps were able to be filled, and different jails were missing different types of information. For example, several jails had incomplete information about the location of an arrest. In the case of executed warrants, this information also isn't always available in MEJIS, especially for county and state agencies with wide jurisdictions.

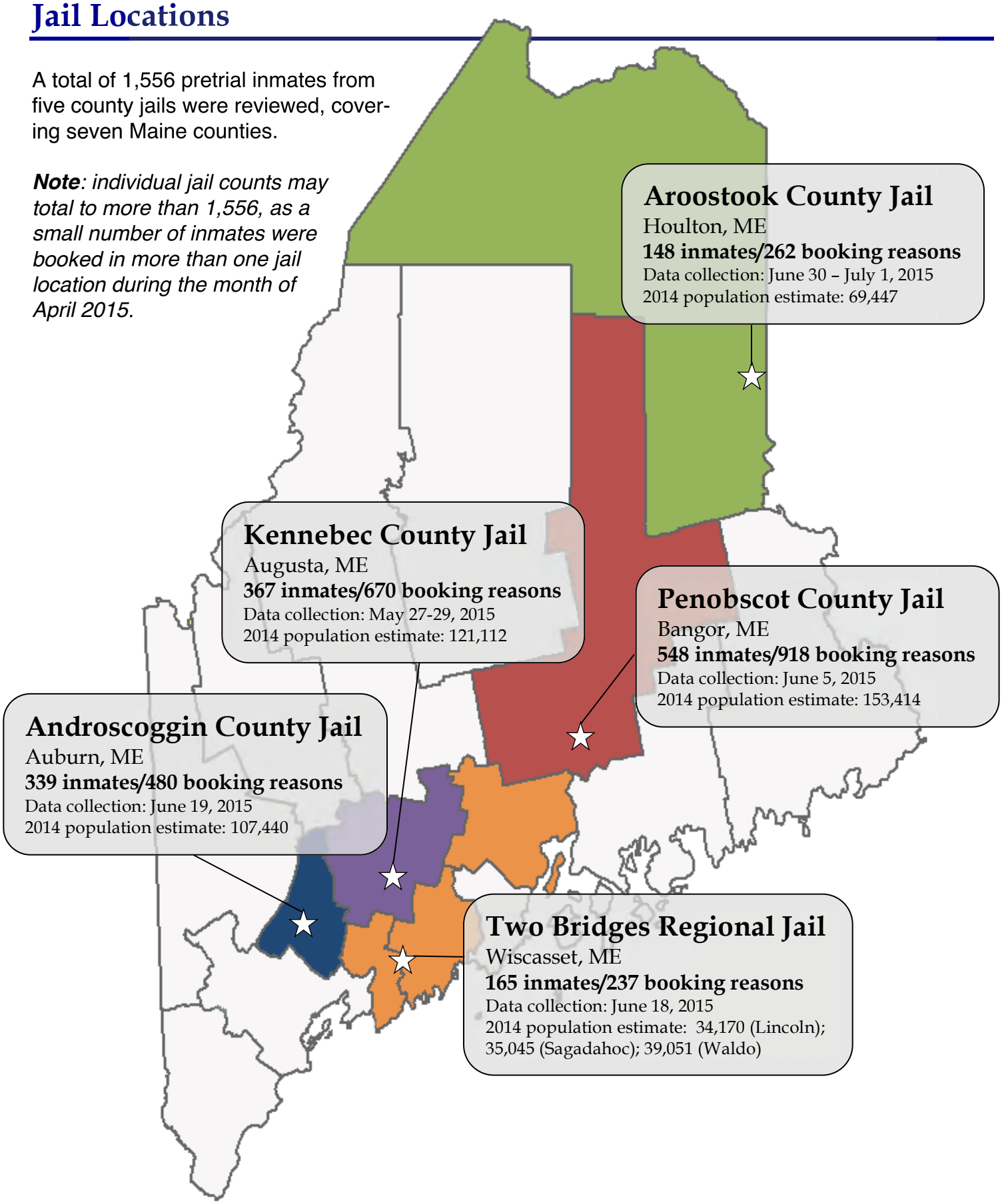
A large amount of data "cleaning" was required to create uniformity across data from all the jails (e.g., consistent naming of charges, classification of warrants, consistency in arresting department names, etc.). During this process, information collected from jails was checked against court information for many cases. However, this was not possible for every case considered in this report, and the possibility exists for inconsistency between information in court records and information as it was recorded by booking departments in the jails. *This is especially true for length of stay calculations for inmates with multiple booking reasons*: often, jails record a single release date for all of an inmate's booking reasons, even if some of those reasons were resolved at an earlier date.

[1] For the purposes of this report, "release date" refers to a) the date an inmate was bailed or otherwise released from jail; b) the date an inmate was no longer being held for a particular booking reason, such as receiving a new fine payment order after appearing before a judge; or c) the date on which an inmate's status changed from pretrial to sentenced.

Jail Locations

A total of 1,556 pretrial inmates from five county jails were reviewed, covering seven Maine counties.

***Note**: individual jail counts may total to more than 1,556, as a small number of inmates were booked in more than one jail location during the month of April 2015.*



Aroostook County Jail
Houlton, ME
148 inmates/262 booking reasons
Data collection: June 30 – July 1, 2015
2014 population estimate: 69,447

Kennebec County Jail
Augusta, ME
367 inmates/670 booking reasons
Data collection: May 27-29, 2015
2014 population estimate: 121,112

Penobscot County Jail
Bangor, ME
548 inmates/918 booking reasons
Data collection: June 5, 2015
2014 population estimate: 153,414

Androscoggin County Jail
Auburn, ME
339 inmates/480 booking reasons
Data collection: June 19, 2015
2014 population estimate: 107,440

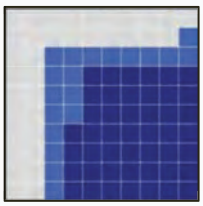
Two Bridges Regional Jail
Wiscasset, ME
165 inmates/237 booking reasons
Data collection: June 18, 2015
2014 population estimate: 34,170 (Lincoln); 35,045 (Sagadahoc); 39,051 (Waldo)

County population estimates from United States Census Bureau

Appendix C

Reasons Pretrial Inmates Are Booked Into Jail

The chart below illustrates the reasons why pretrial inmates were booked into jail. Each gray block on the right represents the entire sample (1,556 inmates). Dark blue portions are the percent of inmates booked only for that reason. The light blue portions are the percent of inmates that have been booked for more than one of the listed reasons.

New Criminal Offenses	**65**	**% of pretrial inmates were booked for new criminal offenses.**	**29 %** of this group were also booked for another reason.	
FTA for Unpaid Fines	**23**	**% of pretrial inmates were booked for FTA for unpaid fines.**	**37 %** of this group were also booked for another reason.	
Probation Revocation	**15**	**% of pretrial inmates were booked for probation revocations.**	**63 %** of this group were also booked for another reason.	
Failure to Appear	**11**	**% of pretrial inmates were booked for failing to appear in court.**	**45 %** of this group were also booked for another reason.	
Motion to Revoke Bail	**6**	**% of pretrial inmates were booked on a motion to revoke bail.**	**86 %** of this group were also booked for another reason.	
FTA for Unpaid Restitution	**4**	**% of pretrial inmates were booked for FTA for unpaid restitution.**	**51 %** of this group were also booked for another reason.	
Other **(see pg. 35 for details)**	**5**	**% of pretrial inmates were booked for some other reason.**	**40 %** of this group were booked for more than one reason.	

Length of Stay

Figure 1 breaks pretrial inmates into several groups based on the length of their stay in jail. The figure provides a general overview of the different reasons for booking within each group.

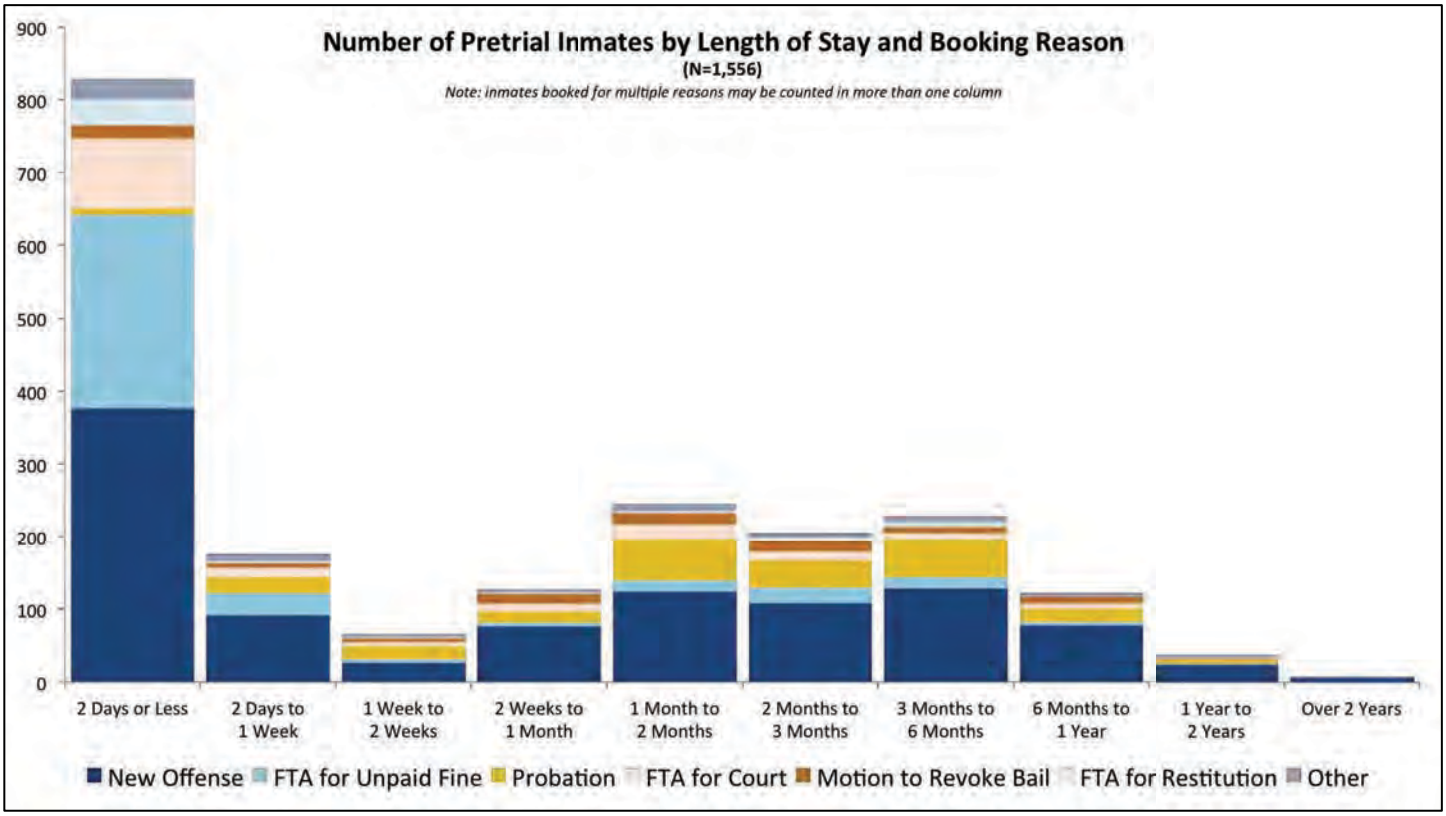


Figure 1. Number of Pretrial Inmates by Length of Stay and Booking Reason

Multiple Reasons for Being Booked

Figure 2 shows the number of pretrial inmates who were booked for multiple reasons.

The majority of inmates reviewed (63% of 1,556) were booked for only a single reason.

The largest number of reasons for which a single inmate was booked was **11.**

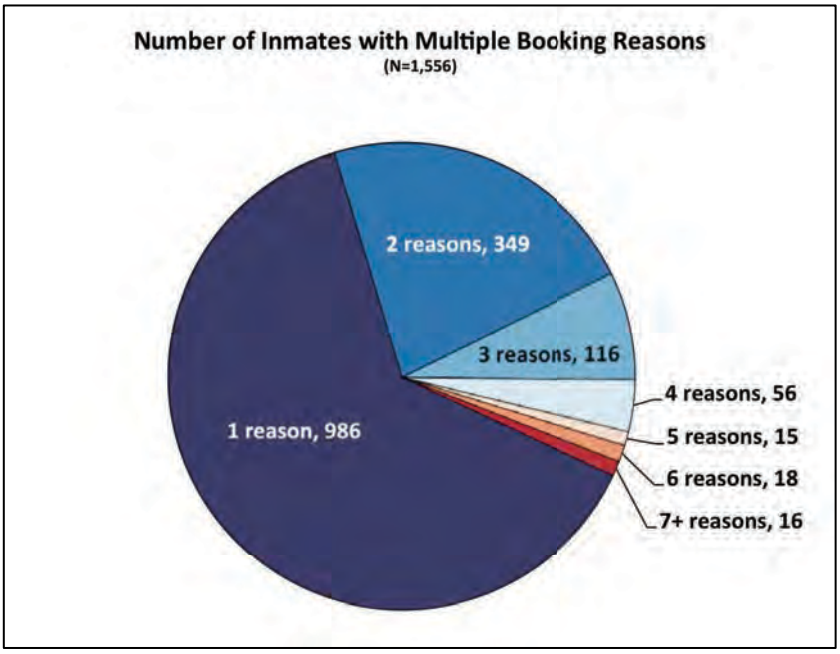


Figure 2. Number of Inmates with Multiple Booking Reasons

New Criminal Offenses

65% of pretrial inmates reviewed (1,012 of 1,556 individuals) were booked for new criminal offenses. New criminal offenses include arrests made in the field by law enforcement, the execution of warrants on affidavit, and the execution of warrants on complaint or indictment. These arrests result in complaints or indictments that may have multiple charges. These charges were pending or otherwise unresolved in court during the time period considered in the review.

Of this group, about 29% (or 19% of the total sample) were **also** booked for some other type of reason—FTA for unpaid fines, probation revocations, etc. This means that **46% of the inmates reviewed** (720 of 1,557) were booked into a jail solely for new criminal offenses.

While the majority of inmates booked for new criminal offenses were brought to the jail solely for that reason, many of these inmates had multiple cases or docket numbers with pending charges. Figure 3 shows the number of inmates booked for new criminal offenses by the number of pending cases for which they were booked.

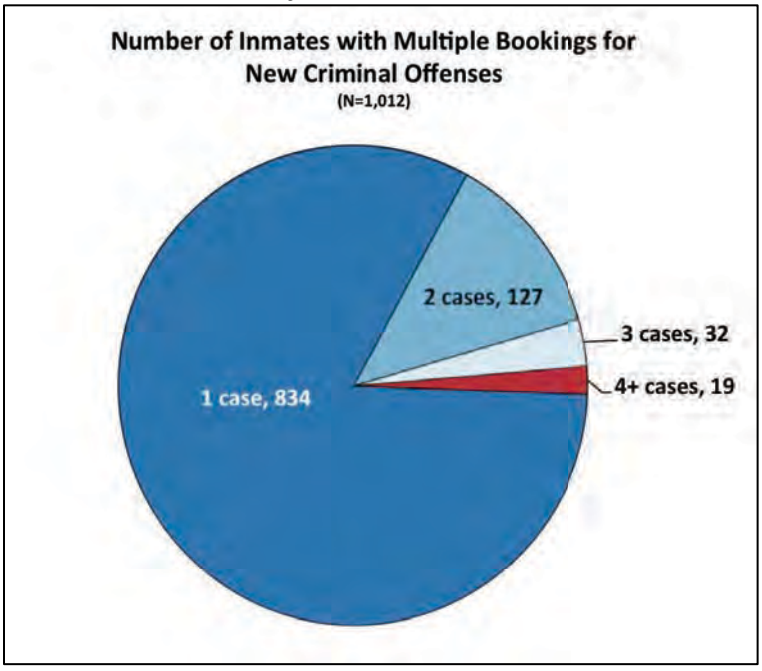
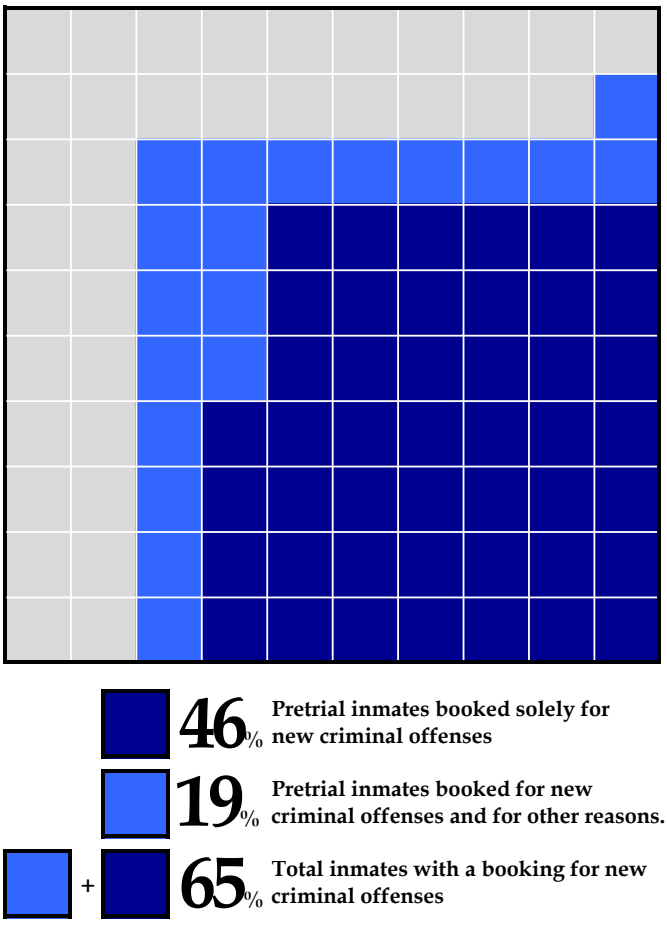


Figure 3. Number of New Offense Inmates with Multiple Cases



As Figure 3 shows, the majority of pretrial inmates booked for new criminal offenses had a single pending case (834 inmates), but 178 had more than one case or docket number with pending charges.

Length of Stay

The average (mean) length of stay for inmates held solely on new criminal charges was **68.8 days.**

Shortest Stay: < 1 day

Longest Stay:[2] 1,077 days

[2] Length of stay at the time of review. The inmate was still incarcerated when the review was undertaken. This particular inmate presented a unique circumstance, in that he was awaiting sentencing on state charges while a resolution to Federal charges was pending.

Figure 4 illustrates the number of inmates at each jail with a booking that included new criminal offenses, grouped by length of stay.

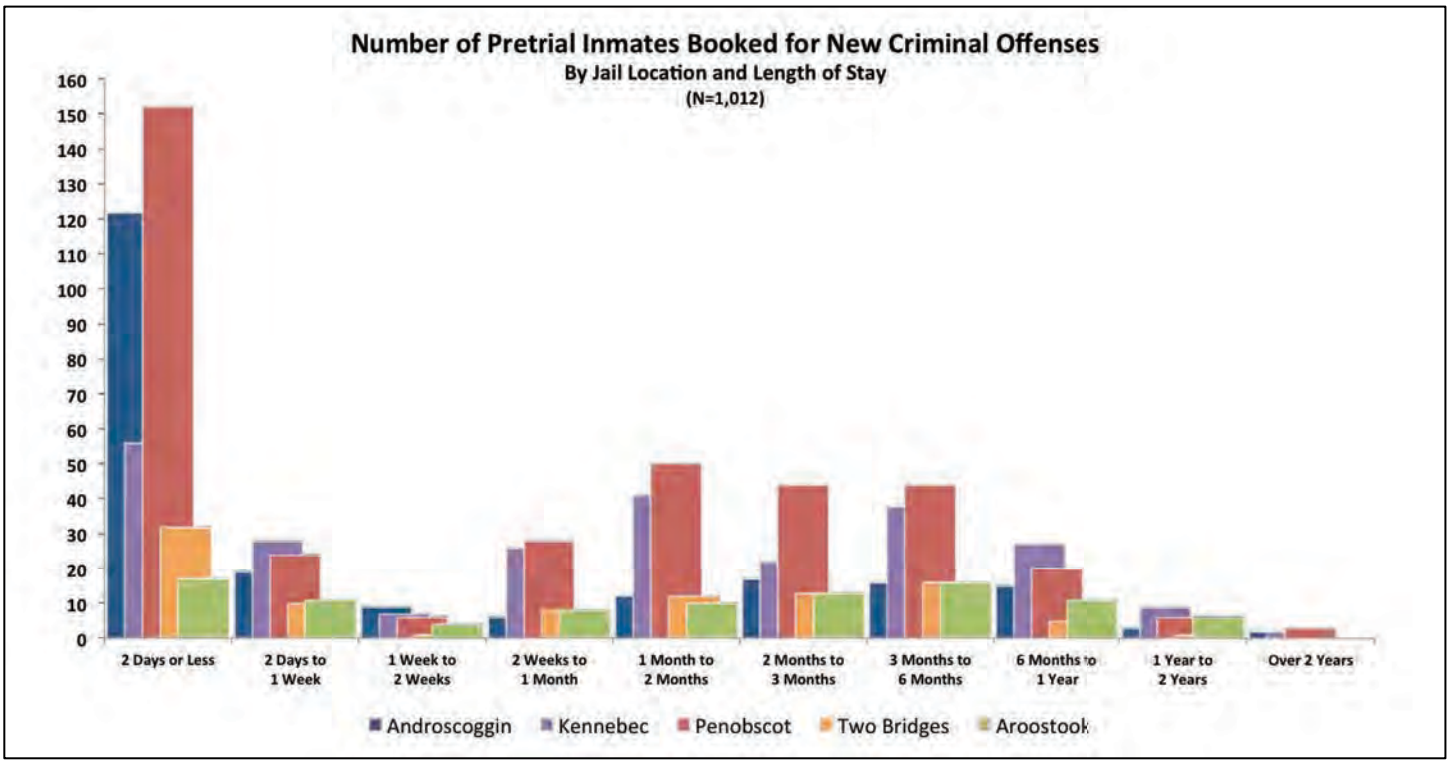


Figure 4. Number of Pretrial Inmates Booked for New Criminal Offenses, by Jail Location and Length of Stay

Figure 5 illustrates the same information, but for the inmates booked only for new criminal offenses.

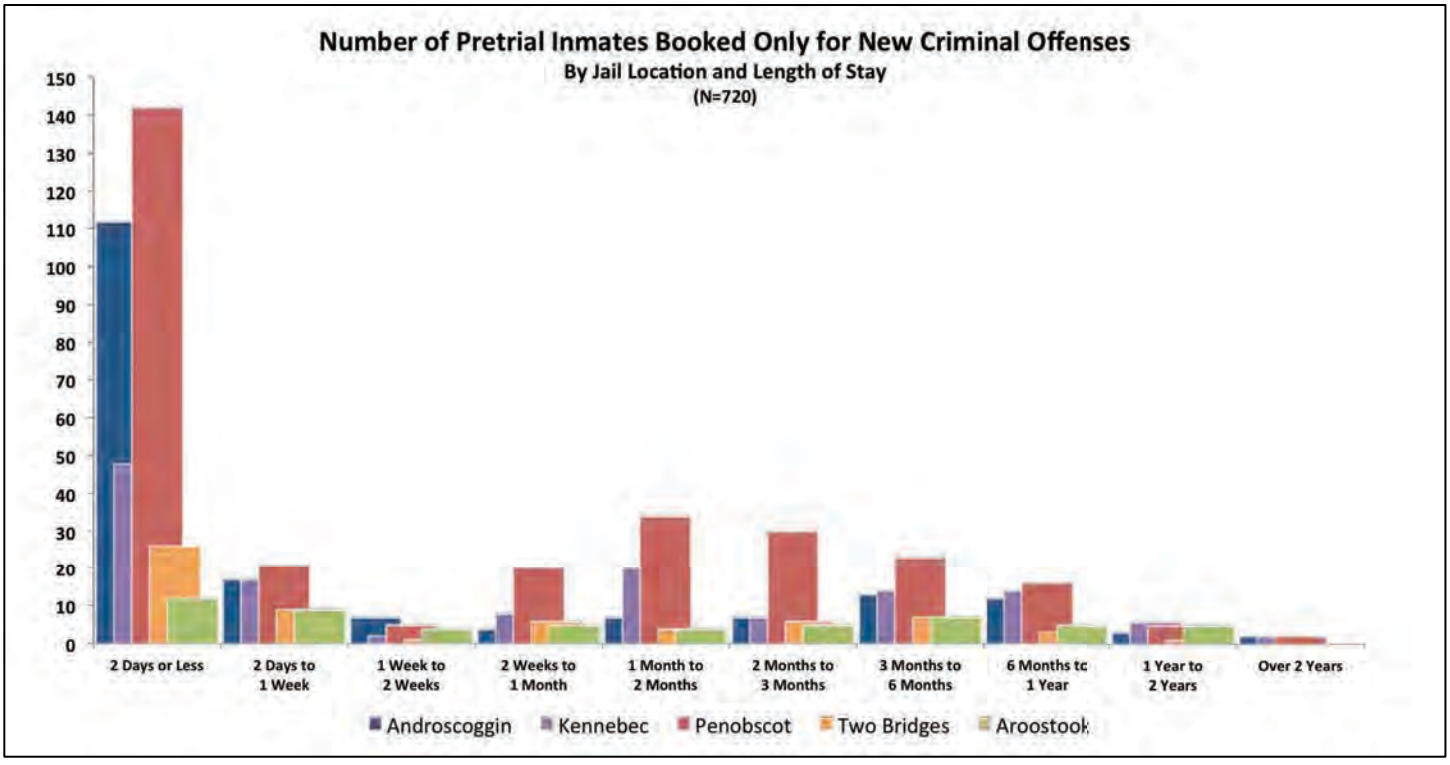


Figure 5. Number of Pretrial Inmates Booked Only for New Criminal Offenses, by Jail Location and Length of Stay

Appendix C

Figures 6 and 7 show the percentage of inmates booked for new criminal offenses by length of stay. *For example, a little over 40% of inmates booked for new criminal offenses in Penobscot County were held for 2 days or less.*

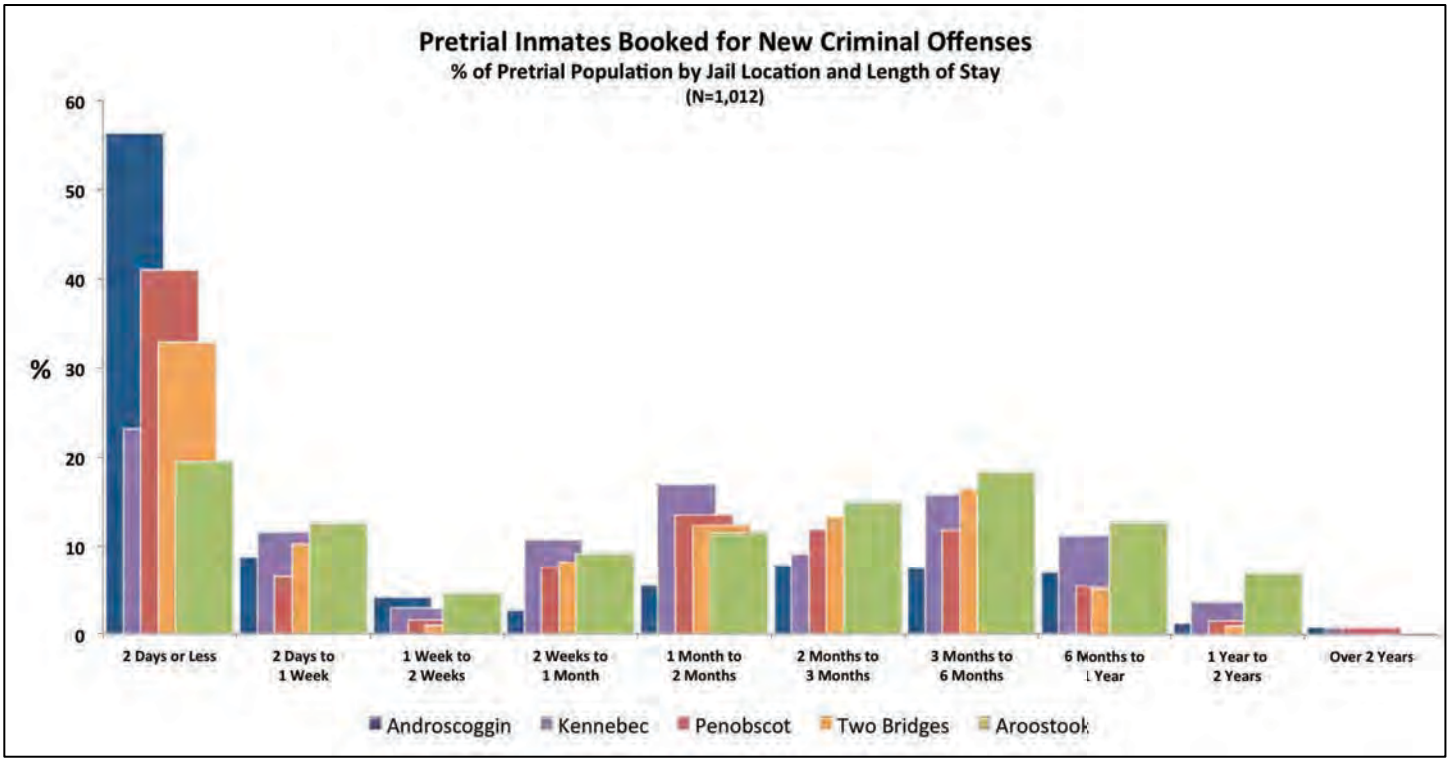


Figure 6. Percent of Pretrial Population Booked for New Criminal Offenses, by Jail Location and Length of Stay

Figure 7 shows the percentage of inmates booked only for new criminal offenses.

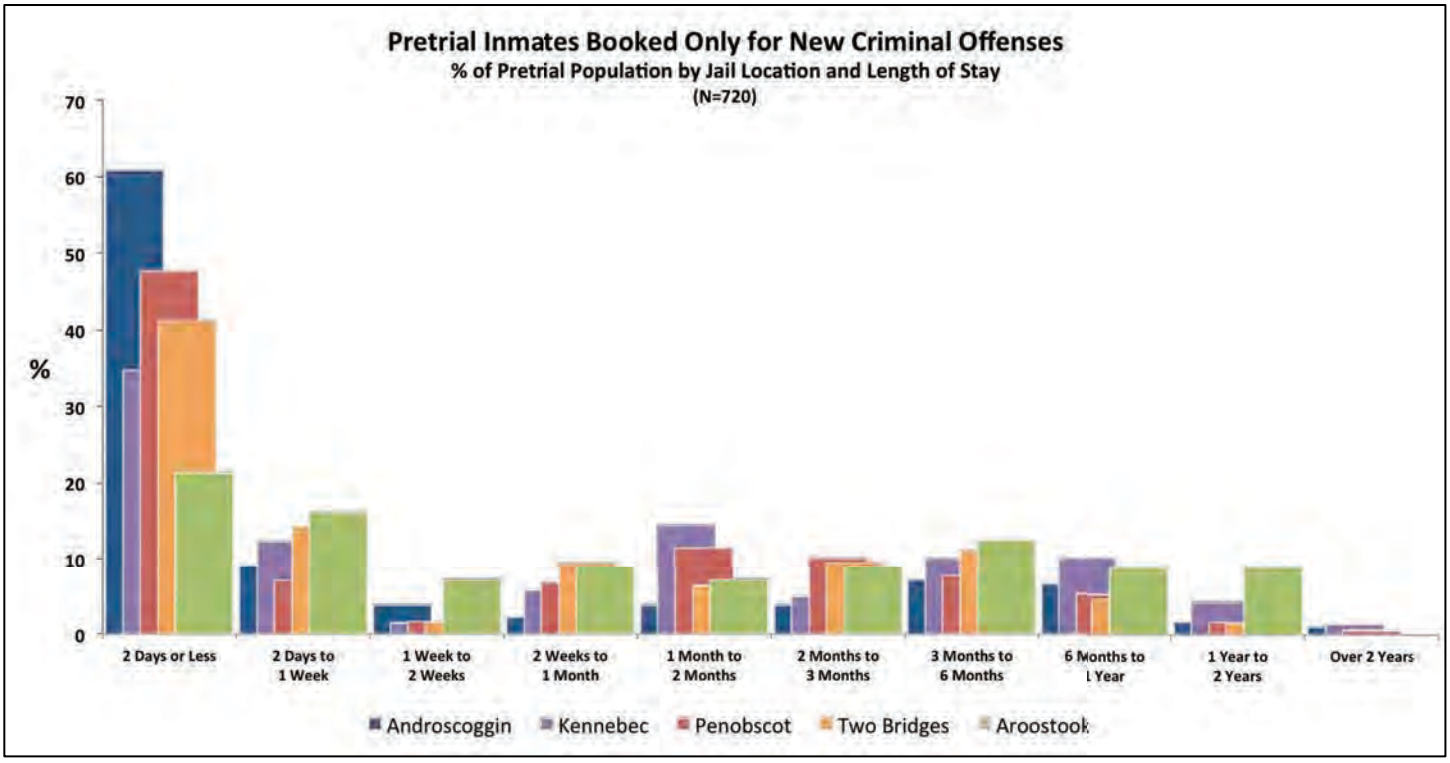


Figure 7. Percent of Pretrial Population Booked Only for New Criminal Offenses, by Jail Location and Length of Stay

Class of Offense

The severity of offenses and bail conditions both play a role in how long a pretrial inmate is held prior to the resolution of his or her case. Figure 8 shows the breakdown of new criminal offense bookings by offense class. *Note: for bookings that had multiple offenses, only the most severe offense was counted.*

Figure 9 shows the number of inmates booked for new criminal offenses, grouped by the most serious charge for which they were booked. *Note: totals may add to more than 1,012, as an inmate booked for more than one case may appear in multiple columns.*

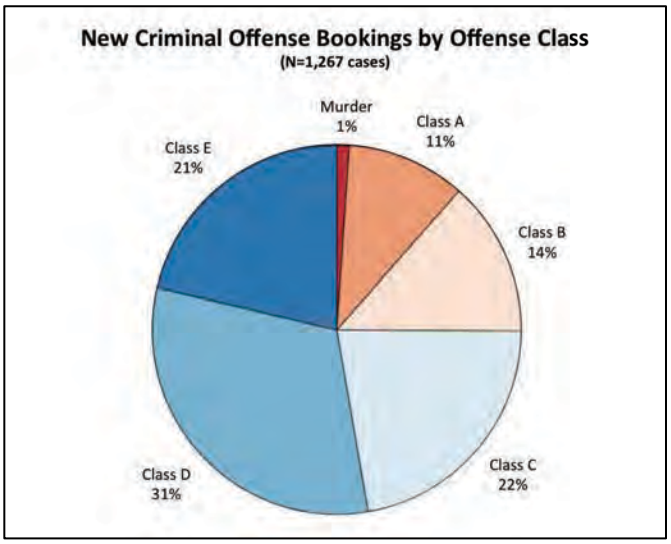


Figure 8. New Criminal Offense Bookings by Offense Class

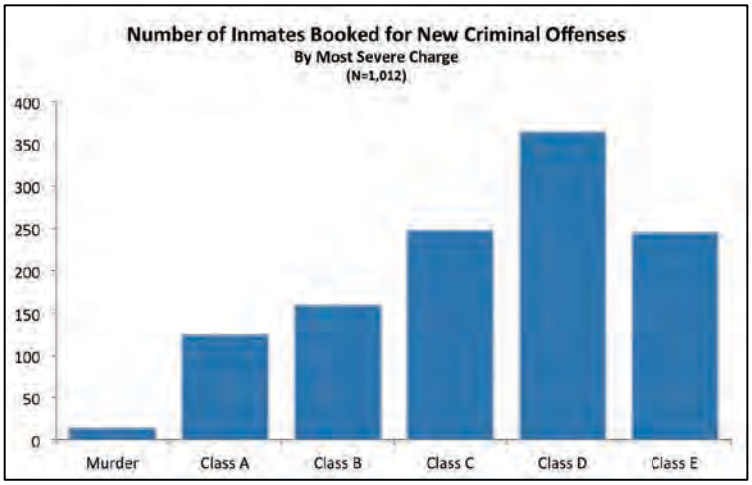


Figure 9. Number of Inmates Booked for New Criminal Offenses

Figure 10 shows how the totals in Figure 9 are divided among the five jails reviewed.

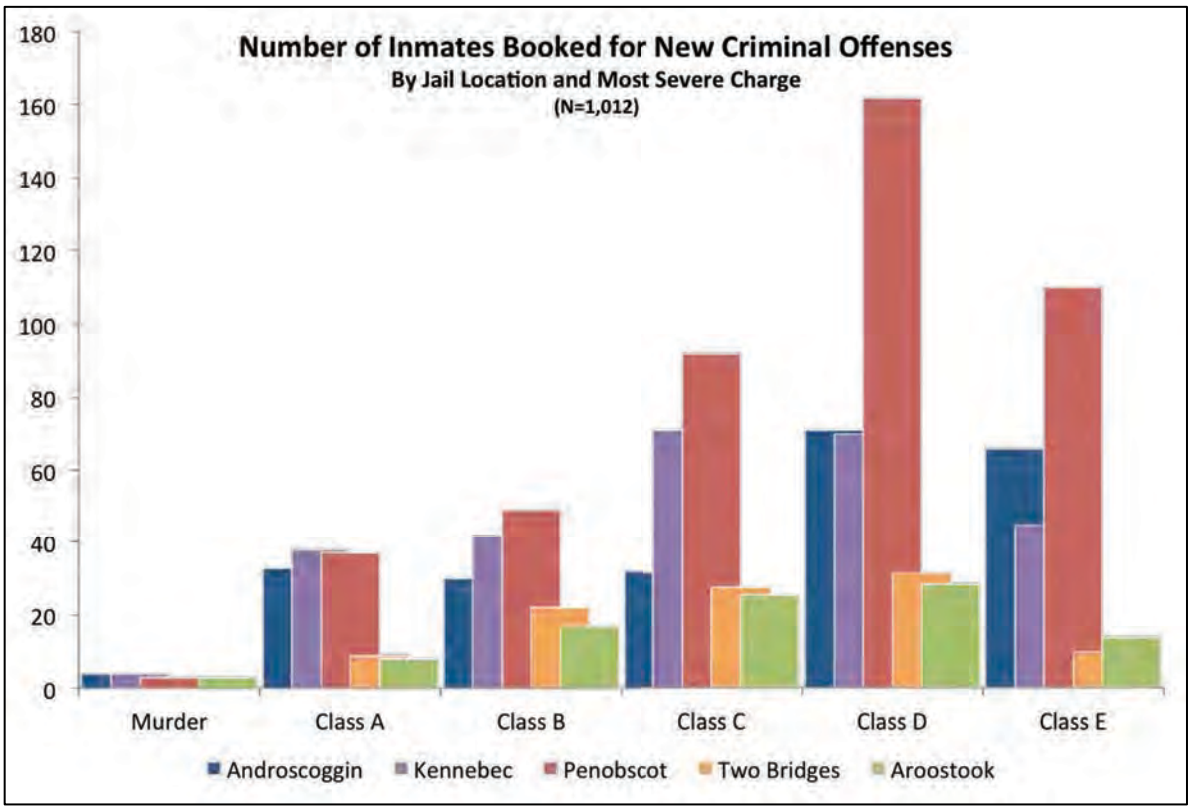


Figure 10. Number of Inmates Booked for New Criminal Offenses, by Jail Location and Most Severe Charge

Figure 11 shows the average (mean) length of stay by offense class. *Note: for bookings that have multiple charges, only the most severe offense was counted.*

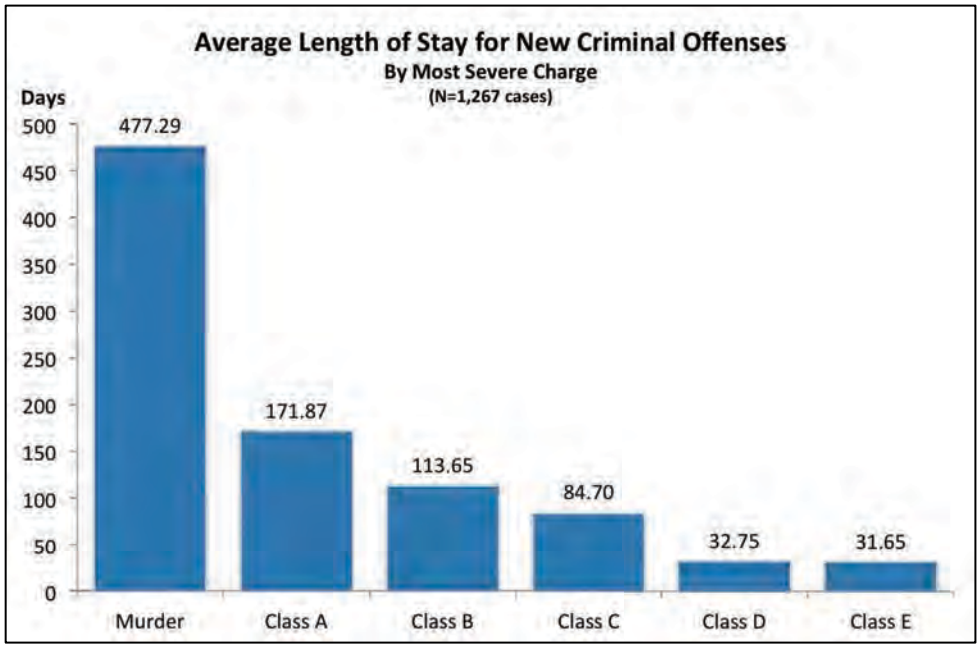


Figure 11. Average Length of Stay for New Criminal Offenses, by Most Severe Charge

Figure 12 shows how the length of stay for each offense class varies across the five jails reviewed. *Note: for bookings that have multiple charges, only the most severe offense was counted.*

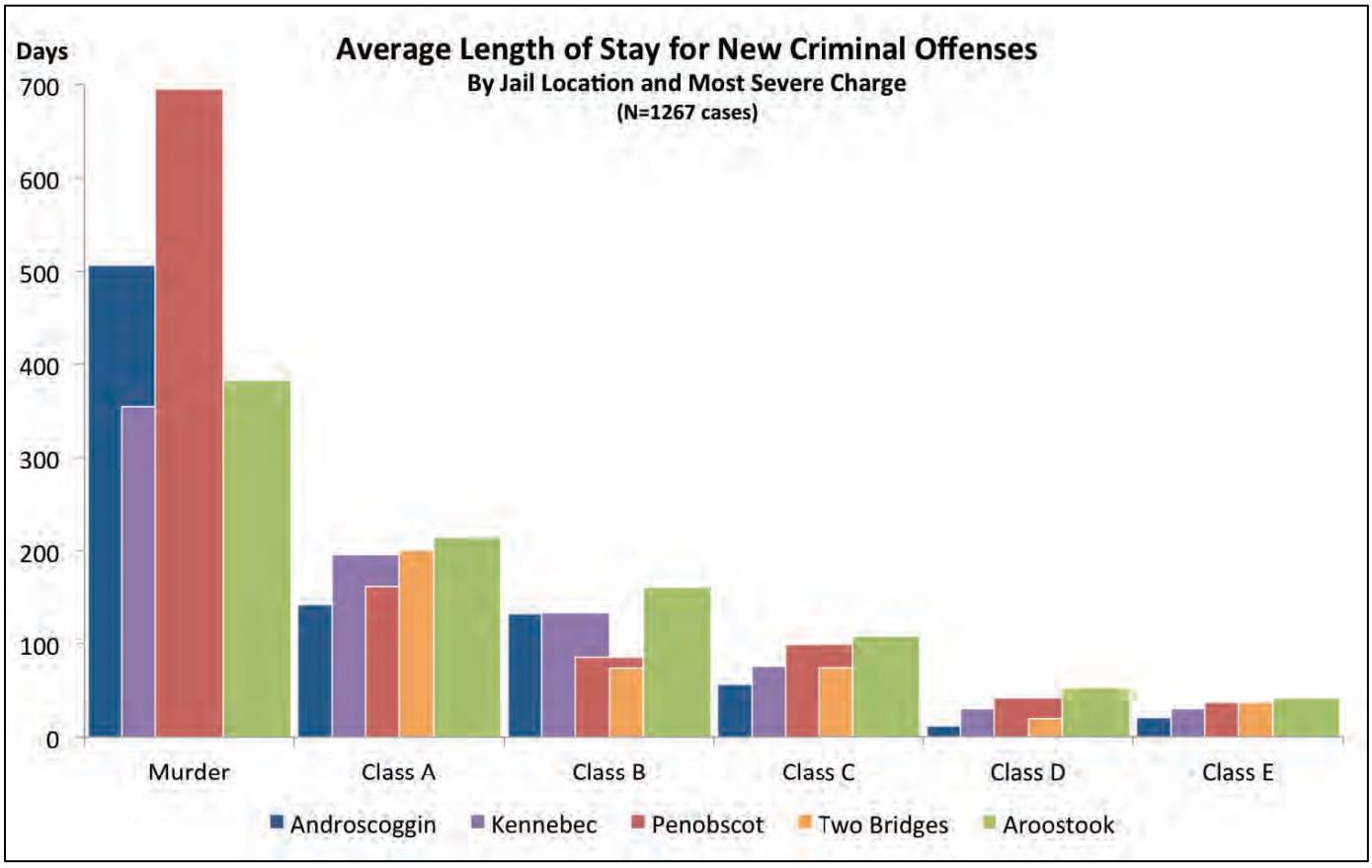


Figure 12. Average Length of Stay for New Criminal Offenses, by Jail Location and Most Severe Charge

Cash Bail for New Criminal Offenses

The severity and nature of offense(s), past criminal history, substance abuse, residence of the offender, relationship to victims, history of failure to appear or violating conditions of release, and many other variables contribute to decisions about bail amounts and conditions.[3] No set formulas or bail charts are used in Maine. For this reason, bail is very much dependent on the context of each specific case. However, some general trends and information about bail amounts can be noted from the booking records in the sample that contained bail information.[4]

Figure 13 shows the range, average (mean) bail amount, and most common bail amount for **inmates booked for new criminal offenses in the study sample**. Numbers were calculated using the most severe charge in a case in which cash bail was set, i.e. the bail range and average for Class E below were calculated using only cases in which Class E was the highest charge present. It is important to note that bail amounts will also be impacted by the number of charges filed.

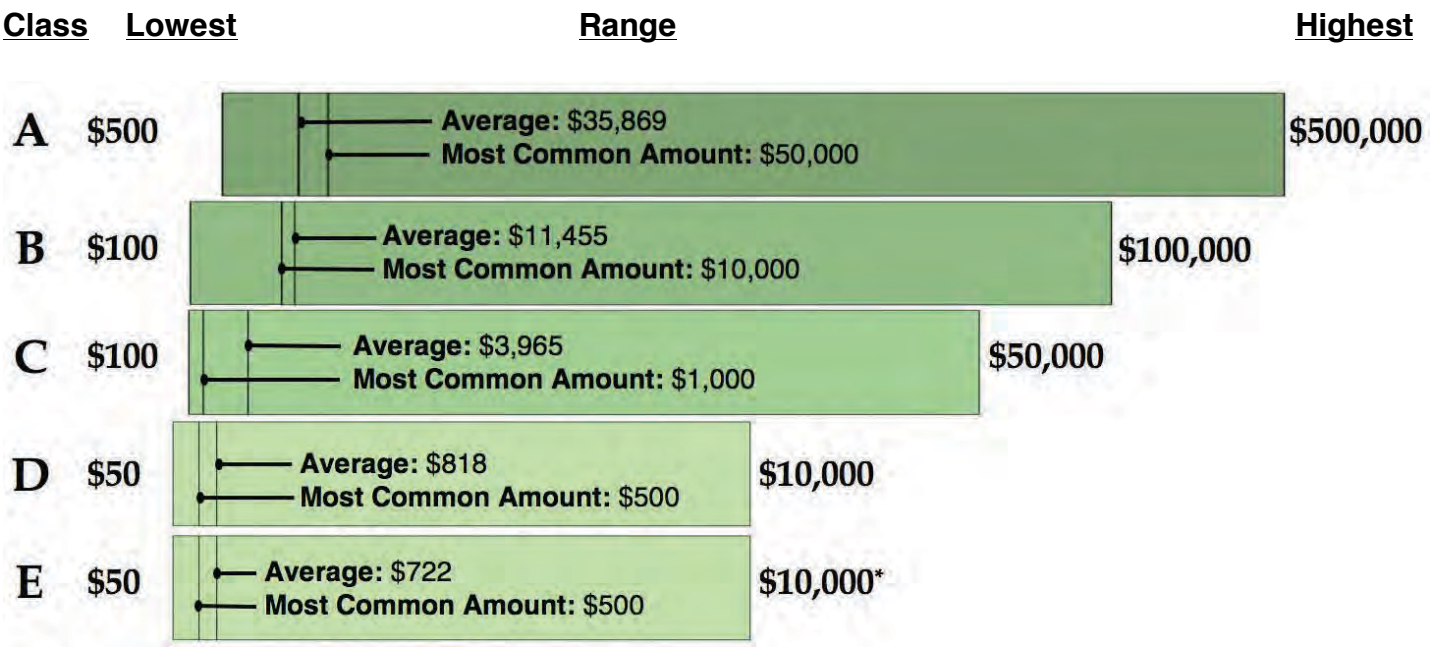


Figure 13. Cash Bail Statistics for Inmates Booked for New Criminal Offenses

*A single inmate accounts for the high upper range for Class E offenses. This inmate had seven pending cases with new criminal conduct, some of which contained serious felony charges. $10,000 cash bail was set concurrent across all cases, including some that had single charges of Class E Violating Condition of Release.

[3] See Maine Bail Code, 15 M.R.S. § 1001 et seq.
[4] 392 booking records did not contain any information about bail that was set.

Appendix C

A portion of pretrial inmates booked for any reason are either held without bail or are ineligible to be bailed by a bail commissioner, precluding the possibility of their release until bail conditions are set, reviewed, or amended by a judge, or until their case is resolved. There are a number of reasons why a defendant may be held without bail or be ineligible to be bailed by a bail commissioner, and as with all bail decisions, the context of each specific case is important.[5]

Figure 14 shows the length of stay for pretrial inmates booked for new criminal offenses, along with the number of inmates who were held without bail or otherwise ineligible to be bailed on those offenses ***for at least part of the time they were held***.

Figure 14. Pretrial Inmates Booked for New Criminal Offenses and Held Without Bail or Ineligible for Bail for That Reason

Figure 15 shows the same length of stay information as Figure 14, however, this chart shows the number of those inmates who are held without bail or ineligible to be bailed for *any* reason—not necessarily their new criminal offenses. These additional bail circumstances may affect the length of stay for many inmates held longer than two weeks.

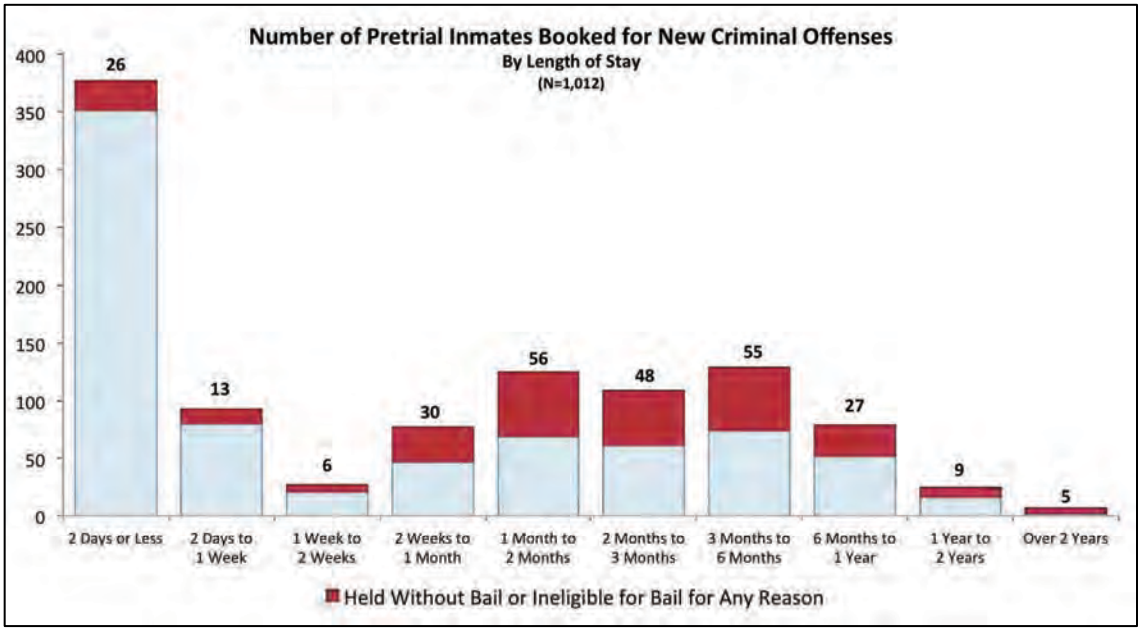


Figure 15. Pretrial Inmates Booked for New Criminal Offenses and Held Without Bail or Ineligible for Bail for Any Reason

[5] See 15 M.R.S. §§ 1023(4) and 1092(4) (cases where a bail commissioner is prohibited from setting bail), 15 M.R.S. § 1027 (standards for release for formerly capital offenses) and 15 M.R.S. § 1028 (de novo determination of bail).

Specific Charges

Many criminal complaints and indictments contain multiple "counts" of offenses, often related to a single criminal incident. The review logged **2,488 unique charges and 264 distinct offenses** among the 1,012 pretrial inmates booked for new criminal offenses. The frequency of specific charges is detailed in the figures that follow.

Figure 16 shows the 20 most common charges for new criminal offense bookings. These 20 offenses accounted for **53% of all 2,488 charges**. The charge of Violating Condition of Release, Class E (15 M.R.S. § 1092(1)) was the most frequent by a significant margin. This charge is particularly important when evaluating pretrial inmates, and is addressed at length in the following section.

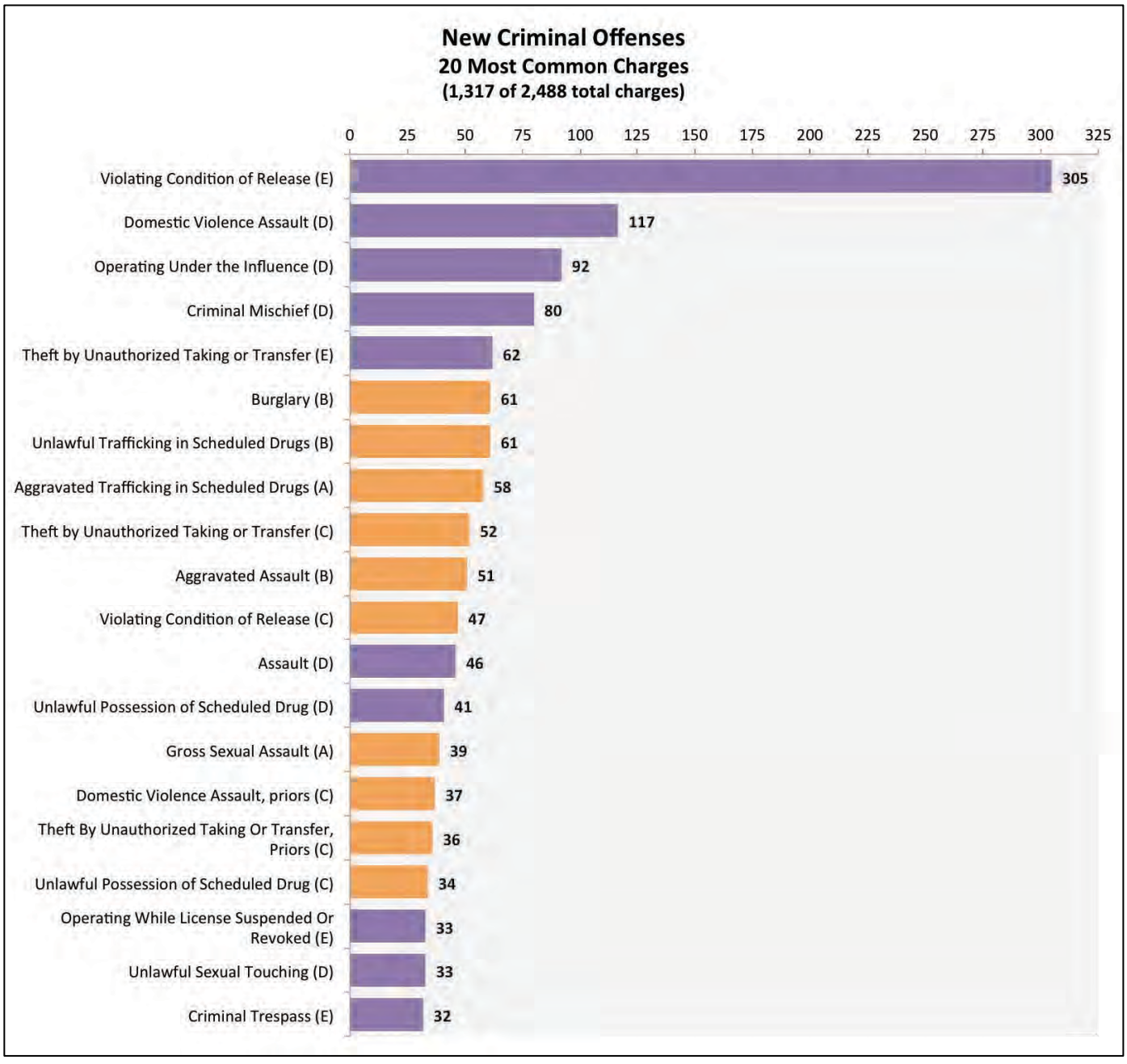


Figure 16. 20 Most Common Charges for New Criminal Offense Bookings

Figure 17 shows the 20 most common felony charges[6] for new criminal offense bookings. These 20 offenses accounted for **66% of all felony charges**.

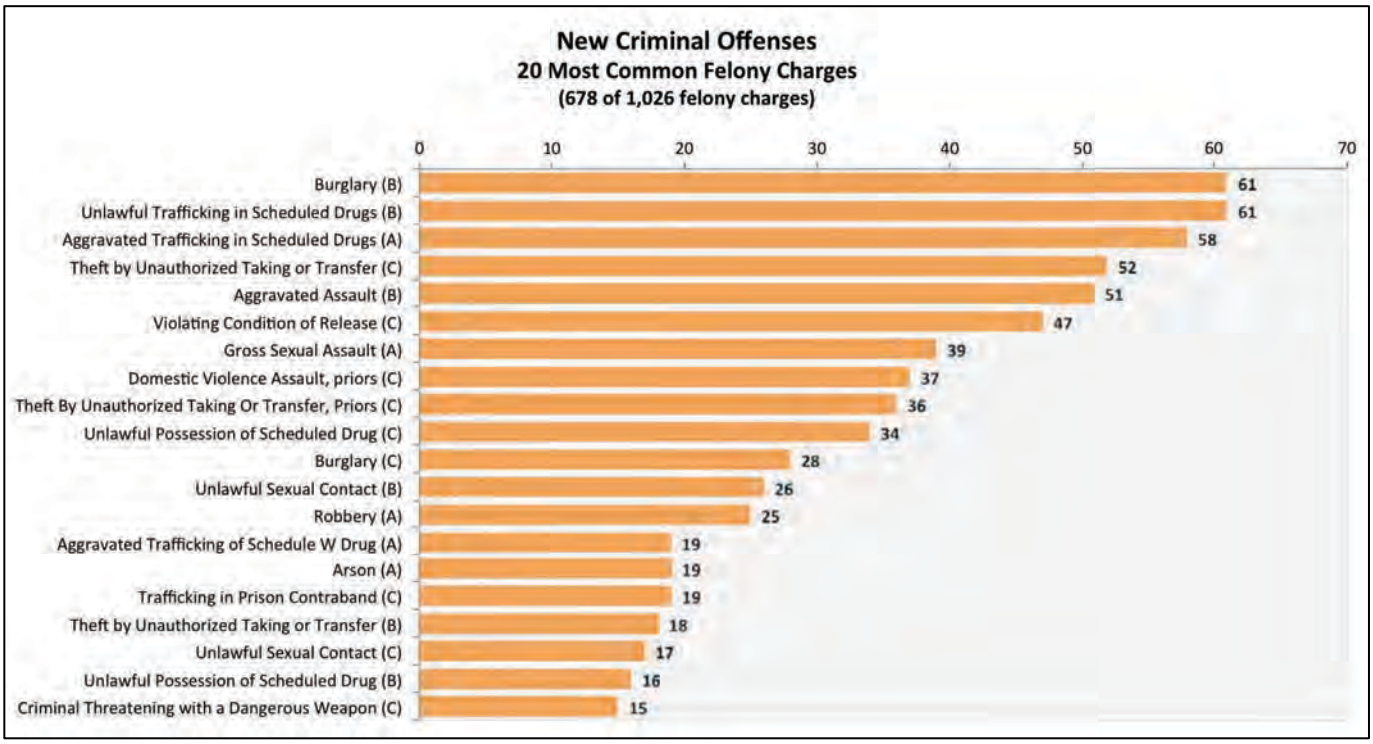


Figure 17. 20 Most Common Felony Charges for New Criminal Offense Bookings

Figure 18 shows the 20 most common misdemeanor charges[7] for new criminal offense bookings. These 20 offenses accounted for **73% of all misdemeanor charges**.

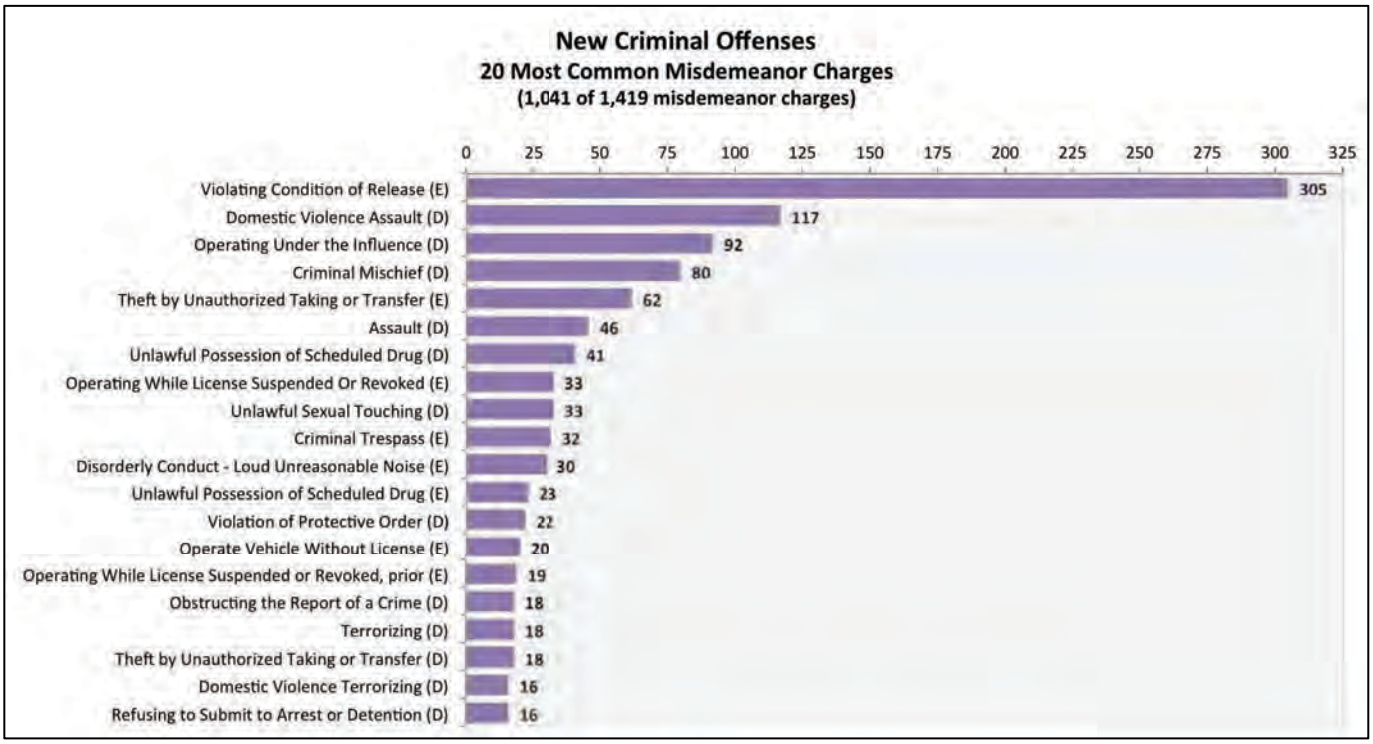


Figure 18. 20 Most Common Misdemeanor Charges for New Criminal Offense Bookings

[6] A felony is any Class A, B, or C crime.

[7] A misdemeanor is any Class D or E crime.

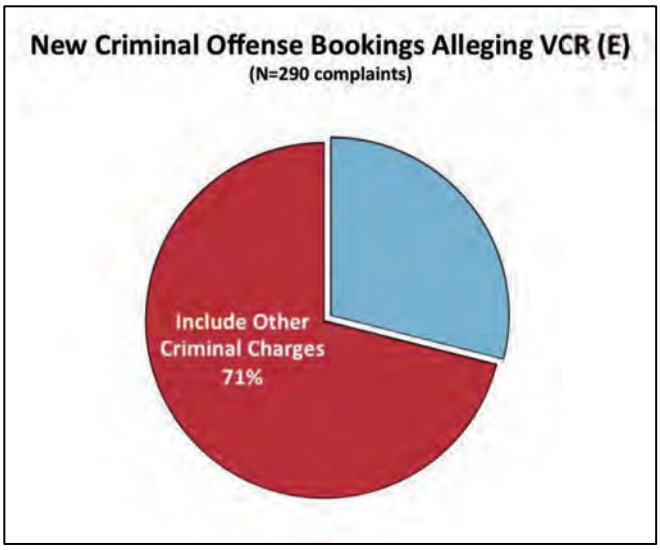
Violating Condition of Release

Violating Condition of Release (VCR) was by far the most frequent offense encountered, making up **14% of all charges for new criminal offenses** (352 of 2,488 charges). 15 M.R.S. § 1092(1) states that "a defendant who has been granted preconviction or postconviction bail and who, in fact, violates a condition of release is guilty of" a class E or class C crime, depending on the underlying charges on which bail was set. These include "standard" bail conditions such as appearing in court when ordered and refraining from new criminal conduct, as well as any special conditions ordered, such as refraining from drug or alcohol use, curfews, "no contact" orders, etc.

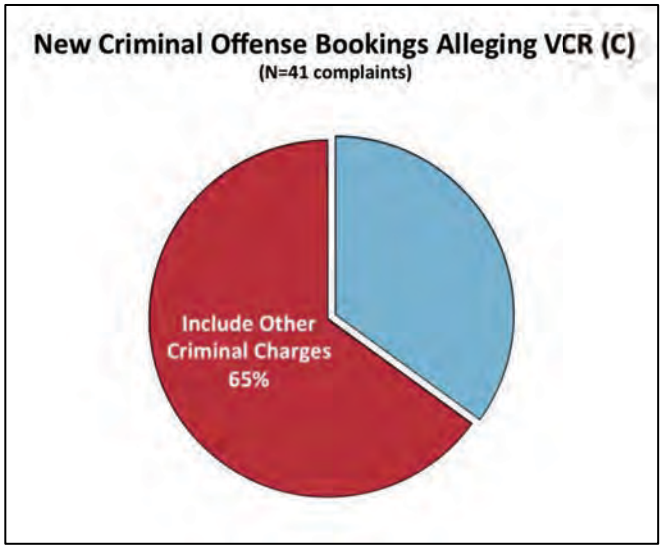
These charges are unique in that they relate to the very process that determines whether a defendant will remain incarcerated pretrial or not—being charged with VCR contitutes an alleged failure on the part of the defendant to abide by the previous bail order that allowed his or her release. Because of this, the authority of bail commissioners to set bail on VCR charges is limited by statute. Bail commissioners cannot set bail:

- if the violation relates to new criminal conduct for a felony or a crime involving domestic violence, violation of a protection order, or sexual exploitation of minors;
- if the underlying crime for which bail was granted is a felony or involves domestic violence or sexual exploitation of minors; or
- if the bail commissioner does not have enough information to determine whether the bail commissioner is statutorily permitted to set bail.[8]

Figure 19 shows the percentage of new criminal offense bookings with a charge of VCR that also included some other criminal charge.



Nearly 3 out of every 4 inmates charged with VCR (E) had additional new criminal charges
(186 of 255 inmates)



2 out of every 3 inmates charged with VCR (C) had additional new criminal charges
(25 of 37 inmates)

Figure 19. New Criminal Offense Bookings Alleging VCR that Also Included Other Criminal Charges

30 inmates (26 for misdemeanor, 4 for felony, only 2% of the total sample) were booked **solely** for a charge of VCR and no other reason.

[8] See 15 M.R.S. §§ 1023(4) and 1092(4).

Failure to Appear for Unpaid Fines

23% of pretrial inmates (353 of 1,556 individuals) had failure to appear (FTA) for unpaid fines listed as a reason in their booking records. Many inmates reviewed were booked for multiple reasons, such as new criminal conduct or probation revocations. Often, contact with law enforcement for these reasons also resulted in the execution of arrest warrants for unpaid fines. Only 221 of the 1,556 inmates (14% of the total sample) were booked solely for unpaid fine matters.

At the time a fine is imposed, a defendant is informed that he or she must make a good faith effort to pay the fine, or return to court to request a change in the terms of payment. Warrants are only issued after a prolonged failure to pay ***and*** a failure to appear to ask the court for a modification of the time or method of payment.

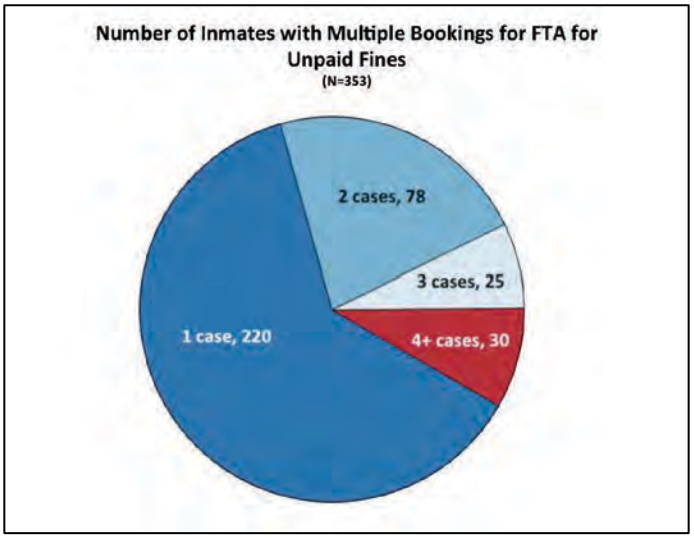
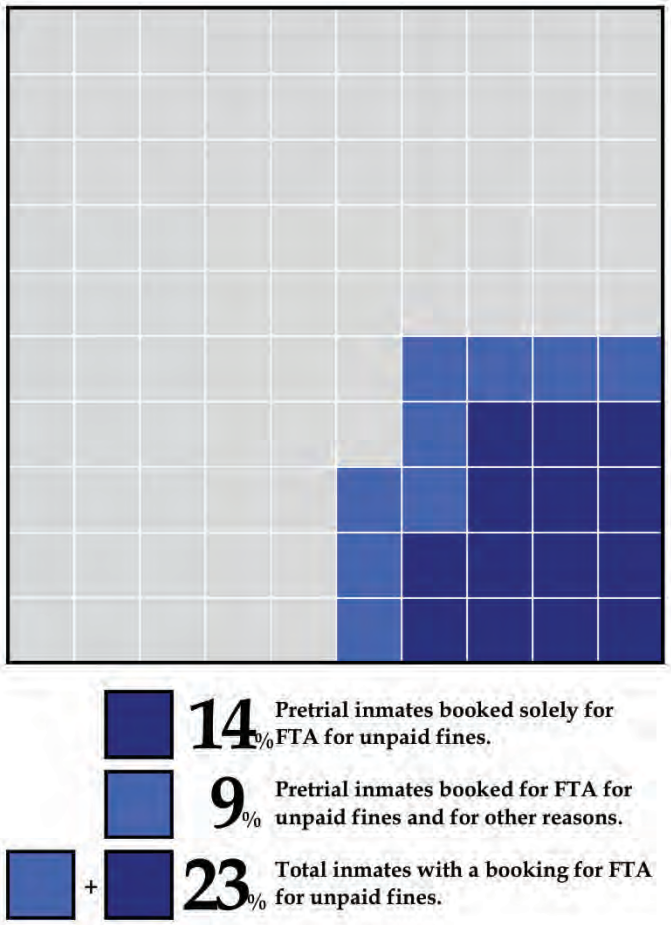


Figure 20. Number of Unpaid Fine Inmates with Multiple Cases



While most inmates booked for FTA for unpaid fines only had a single case with a balance due, a number of these individuals had warrants executed for more than one court case. The largest number of unpaid fine cases encountered for one inmate was 7.

Length of Stay

When considering inmates who were only booked for FTA for unpaid fines, the average (mean) length of stay was **1.3 days**.

Of the 353 inmates who had a booking for FTA for unpaid fines:

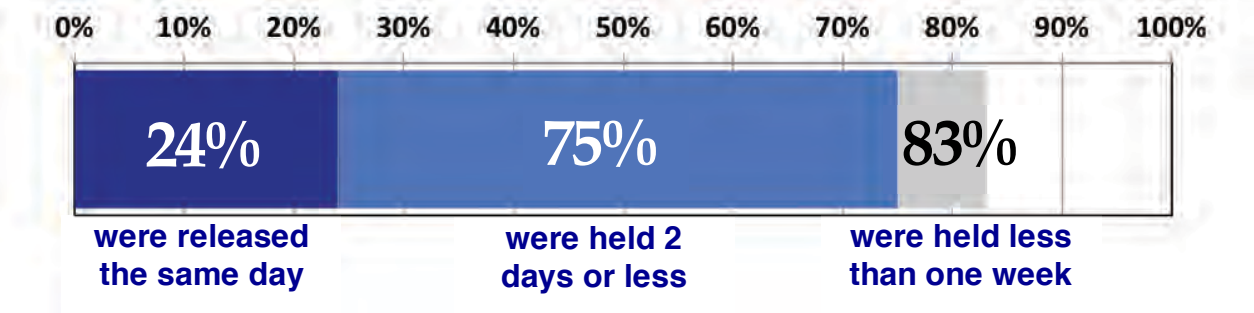


Figure 21 illustrates the number of inmates at each jail with a booking that included FTA for unpaid fines, grouped by length of stay.

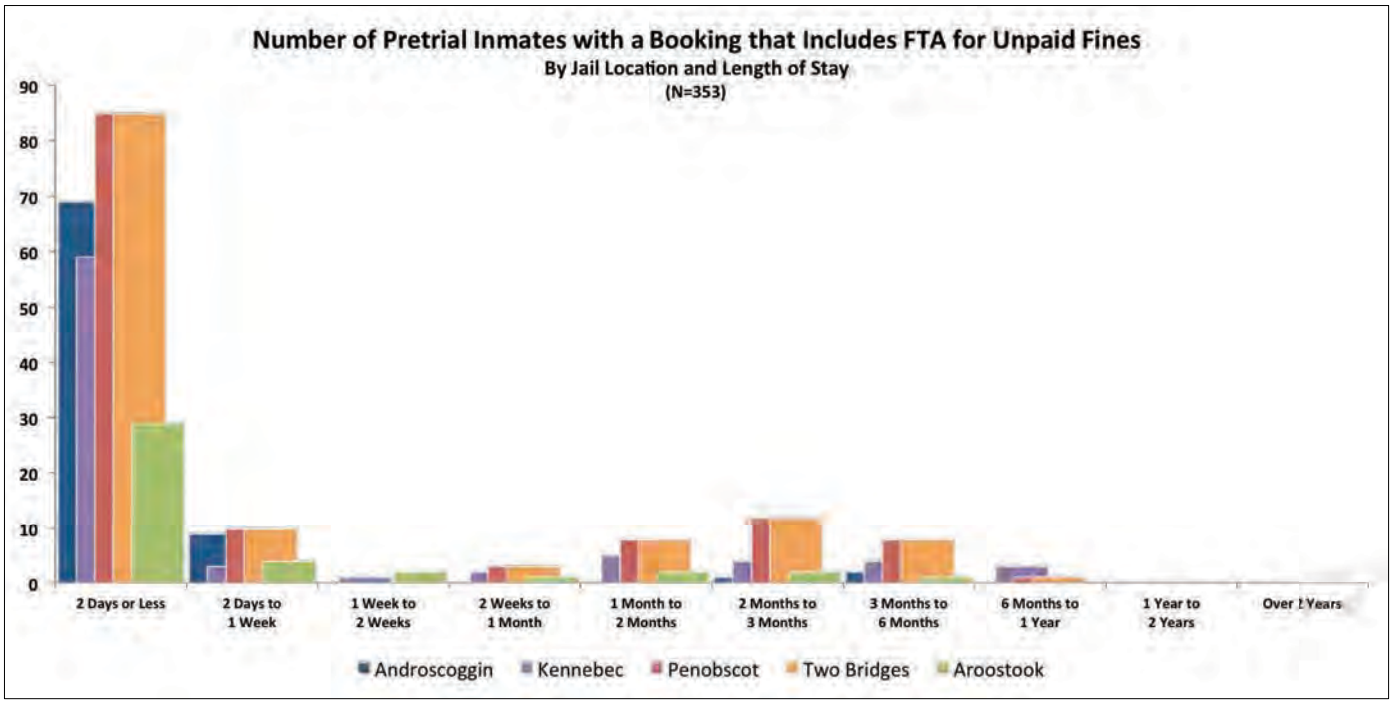


Figure 21. Number of Pretrial inmates with a Booking that Includes FTA for Unpaid Fines

Figure 22 illustrates the same information presented above, but for the inmates booked only for FTA for unpaid fines:

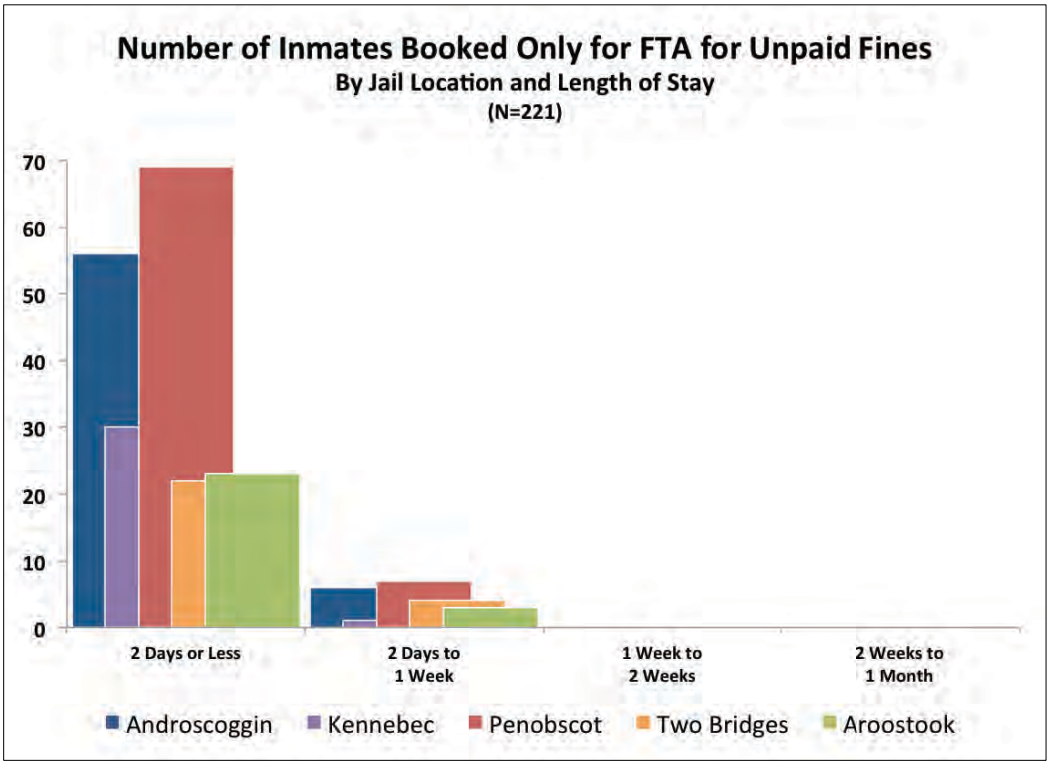


Figure 22. Number of Inmates Booked Only for FTA for Unpaid Fines

Figures 23 and 24 show the percentage of inmates booked for FTA for unpaid fines by length of stay. *For example, 85% of inmates booked for FTA for unpaid fines in Androscoggin County were held for 2 days or less.*

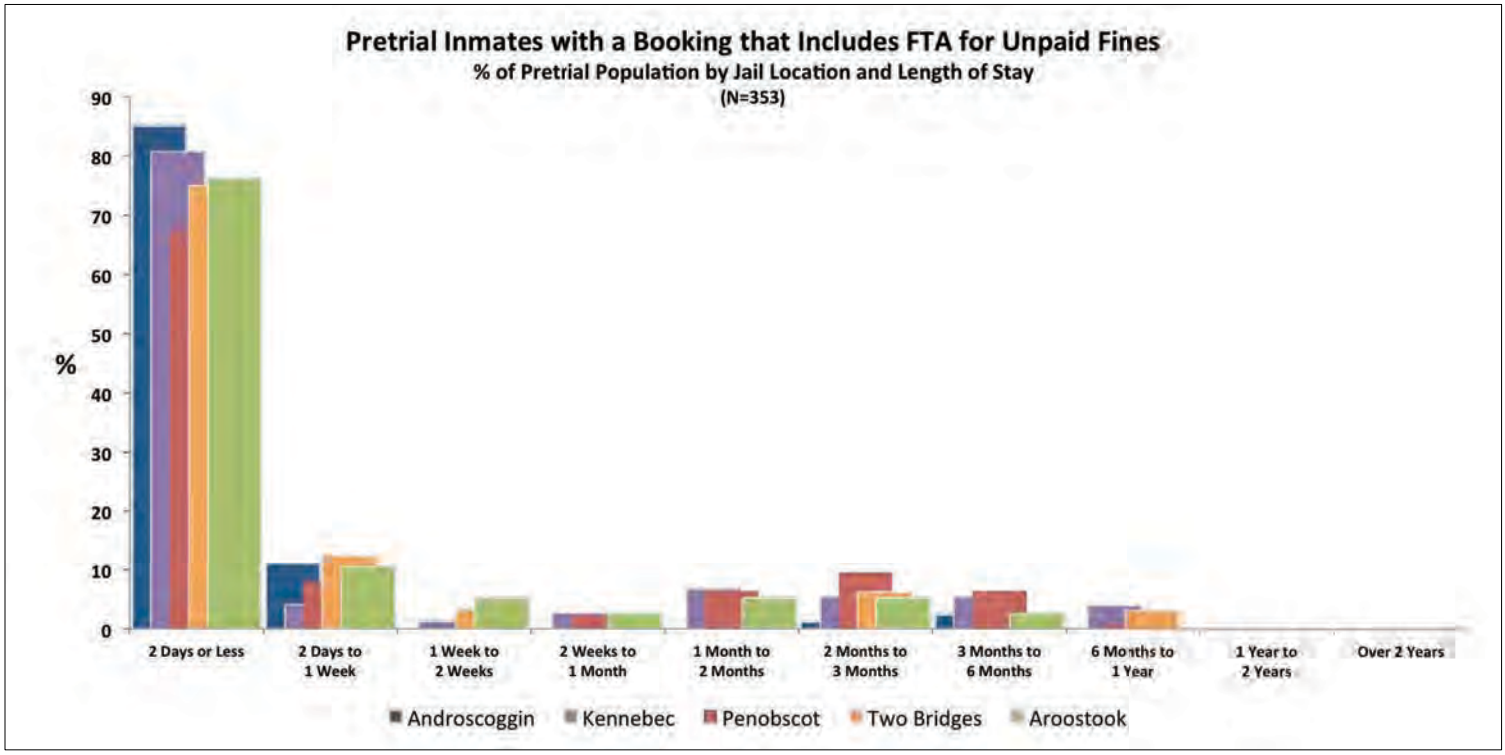


Figure 23. Percentage of Inmates Booked for FTA for Unpaid Fines, by Location and Length of Stay

As shown below, nearly all inmates booked only for FTA for unpaid fines were held 2 days or less, and none of these inmates had a stay lasting longer than one week.

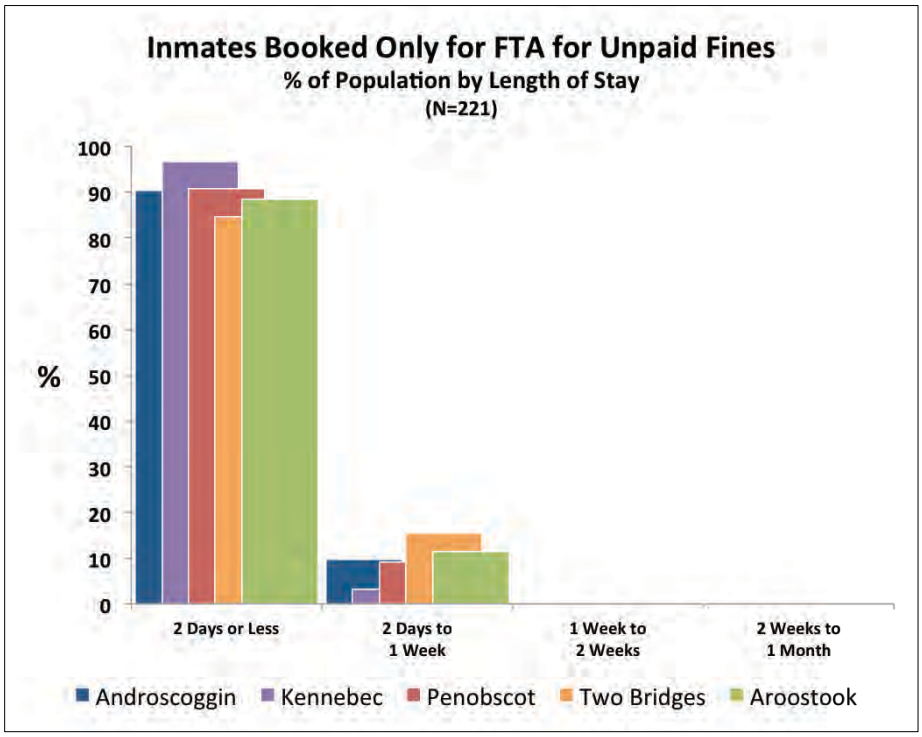


Figure 24. Percentage of Inmates Booked Only for FTA for Unpaid Fines, by Location and Length of Stay

Specific Charges

The review logged **1,107 unique charges and 147 distinct offenses** among the 353 pretrial inmates booked for FTA for unpaid fines.

Figure 26 below lists the 20 most common underlying charges for FTA for unpaid fine bookings. These 20 offenses accounted for **63% of all 1,107 charges**. The **charges with red bars** are those that have mandatory minimum fine amounts set by statute.

As Figure 25 shows, 45% of all FTA for unpaid fine charges reviewed had mandatory minimum fine amounts. Figure 27 on the next page lists the 20 most common mandatory minimum fine charges for FTA for unpaid fine bookings. This list is dominated by Title 29-A offenses (motor vehicle) and offenses from Title 17-A, Chap. 45 (drugs).

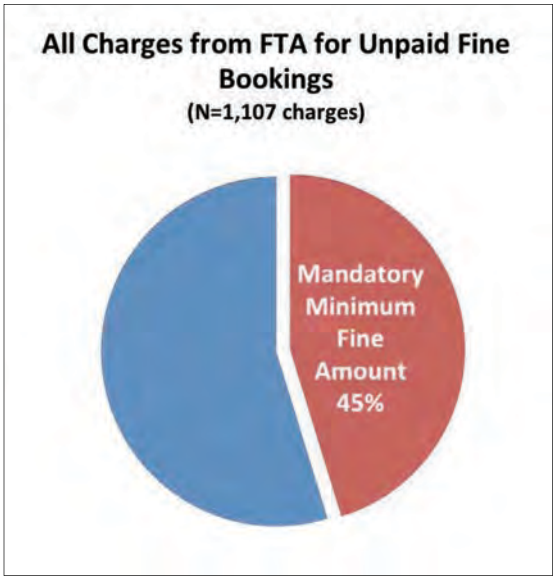


Figure 25. All Charges from Unpaid Fine Bookings

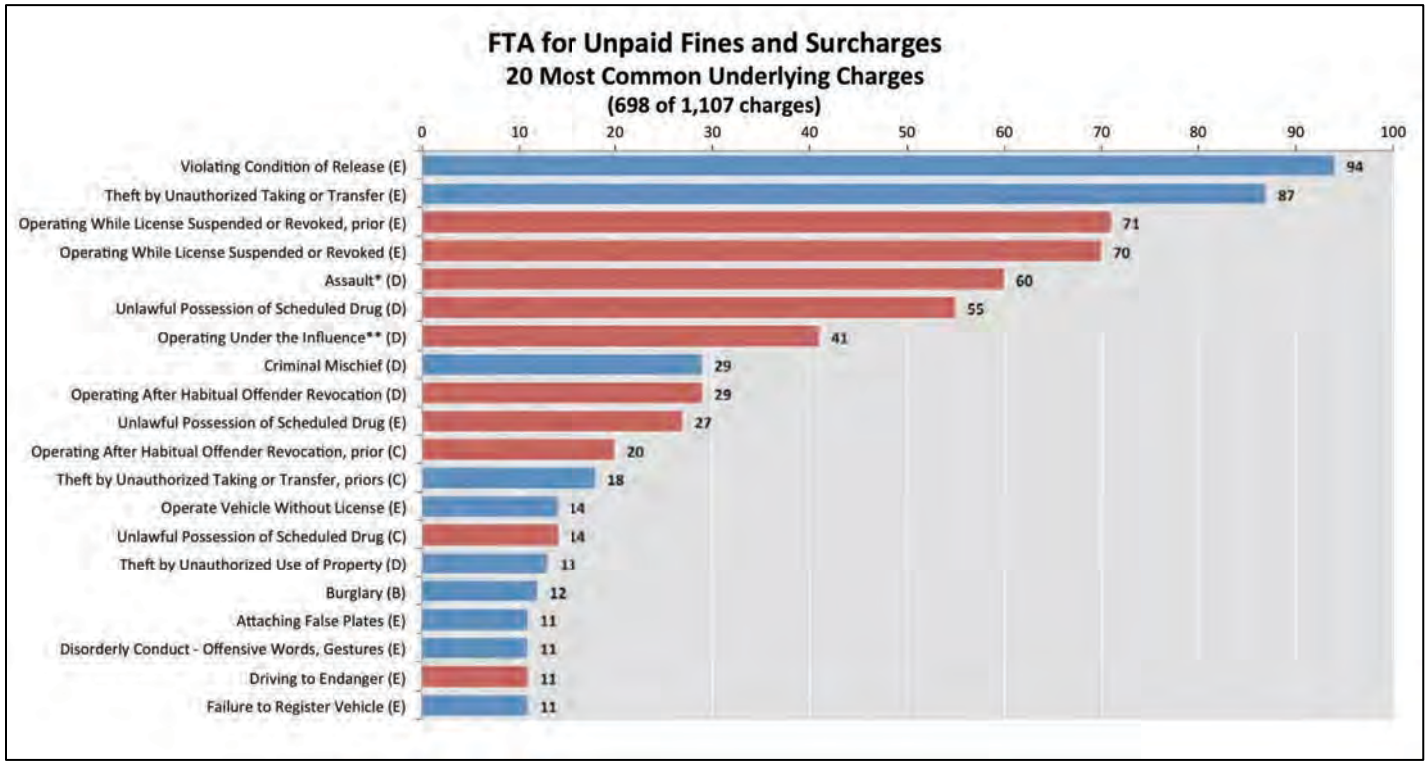


Figure 26. 20 Most Common Underlying Offenses for FTA for Unpaid Fine Bookings

*Includes only "simple" assault charged under 17-A M.R.S. § 207, and does not include domestic violence-related offenses.

**Includes only first-time OUI charges without aggravating circumstances.

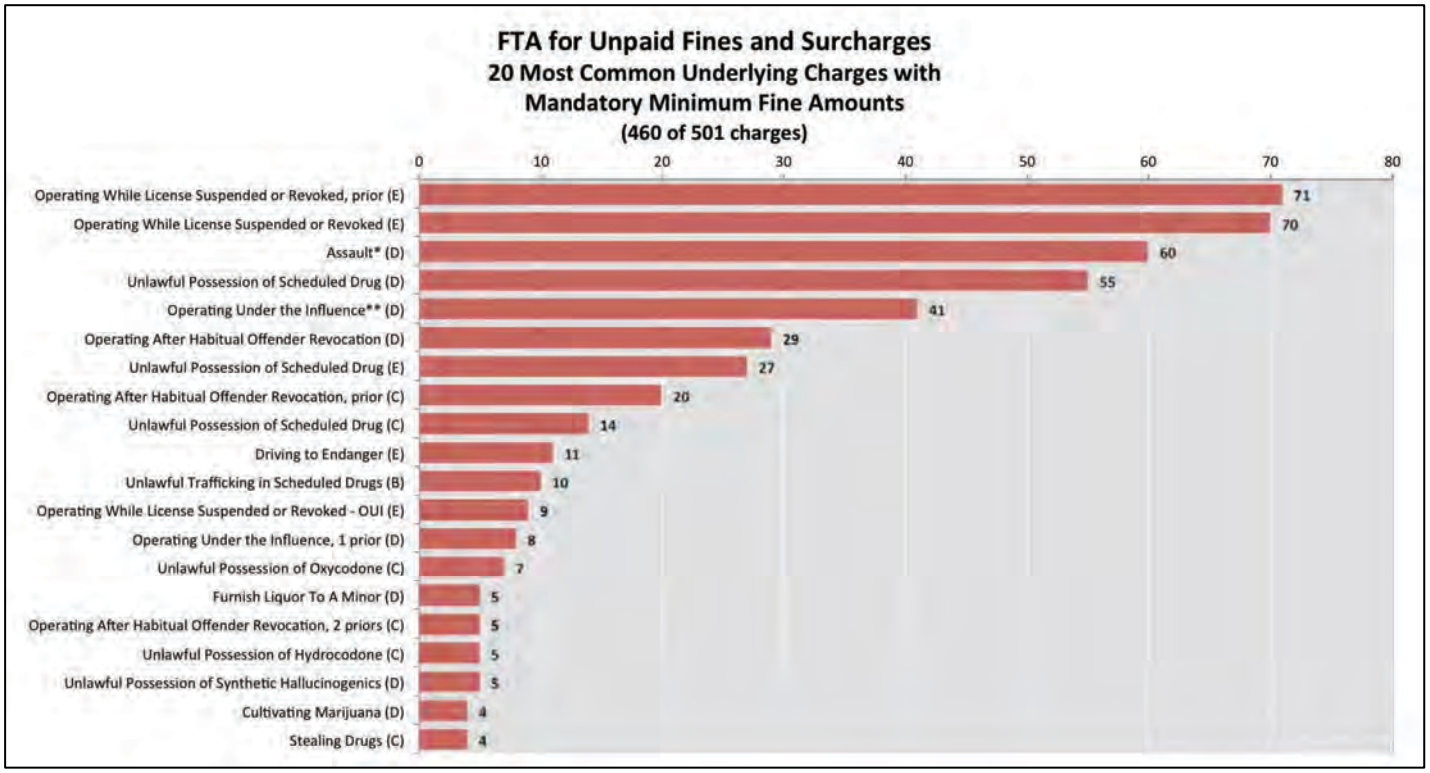


Figure 27. 20 Most Common Unpaid Fine Charges with Mandatory Minimum Fine Amounts

*Includes only "simple" assault charged under 17-A M.R.S. § 207, and does not include domestic violence-related offenses.

**Includes only first-time OUI charges without aggravating circumstances.

An additional 25 offenses with mandatory minimum fine amounts appeared in the sample. However, all of these offenses had 3 or fewer occurrences, and the majority of mandatory minimum offenses are represented in Figure 27 above.

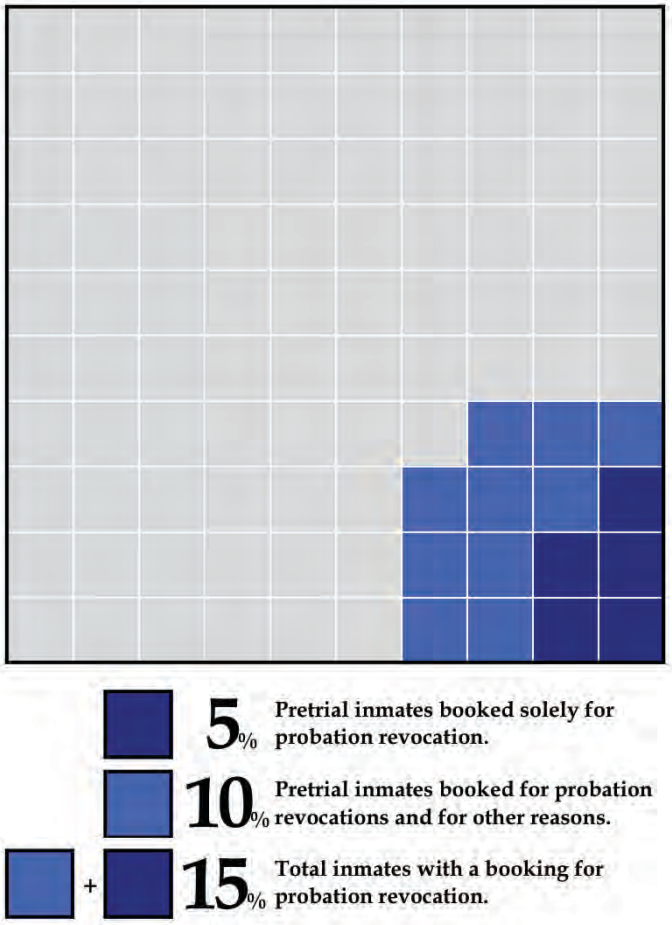
Bail for FTA for Unpaid Fines

A detailed analysis of cash bail amounts and conditions was not undertaken for FTA for unpaid fine cases, because the amount of bail set usually reflects the balance remaining on the defaulted fine. Because bail amounts are so closely tied to the specific details of each case, looking at these bail amounts together reveals little about how bail decisions in these cases affect the length of an inmate's stay in jail. In any case, the vast majority of inmates in unpaid fine cases either post bail and are released, or are seen by a judge within 48 hours and released with a new payment arrangement.

Probation Revocation

15% of pretrial inmates (228 of the 1,556 individuals) were being held on a probation hold or bail order for a pending probation revocation proceeding. Inmates in this category include those placed under a probation hold by a probation officer, those held on a judge's bail order, and those arrested on a warrant for probation revocation or probation violation.

Most inmates booked for probation revocation were also booked for other reasons—**63% of this group (10% of the total sample) had additional booking reasons.** Only 84 inmates were booked solely for probation revocation.



Length of Stay

The average (mean) length of stay for inmates held solely on probation revocations was **57.4 days.** That average increases to **86 days** when considering inmates held for probation revocation and another reason.

Perhaps unsurprisingly, the majority of pretrial inmates booked for probation revocations were only booked on a single probation case—multiple concurrent terms of probation are infrequent.

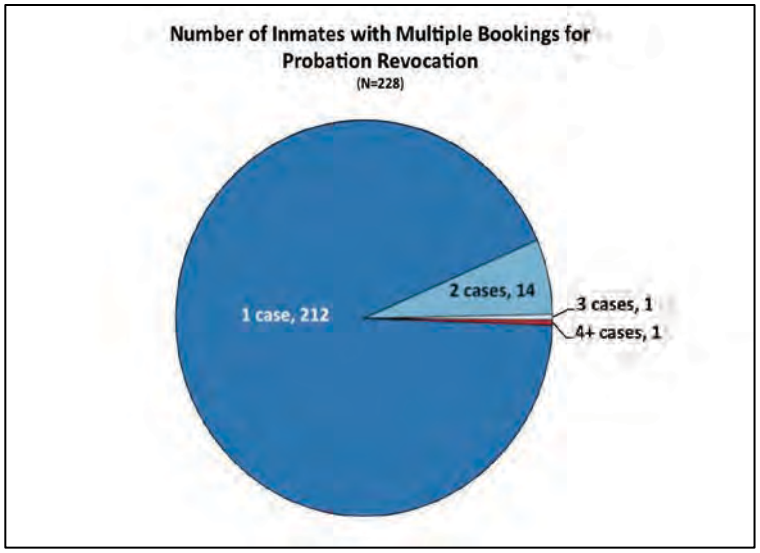


Figure 28. Probation Revocation Inmates with Multiple Cases

Shortest Stay: 1 day

Longest Stay:[9] 401 days

It is important to note that this stay represents the time an inmate is held while an allegation that probation was violated is pending—it does not represent time served on the suspended portion of a sentence because of that violation. Probation revocation inmates are considered "pretrial" for the period between the filing of a motion to revoke probation and the adjudication of the motion.

[9] Length of stay at the time of review. The inmate was still incarcerated when the review was undertaken.

Figure 29 illustrates the number of inmates at each jail with a booking that included probation revocation, grouped by length of stay.

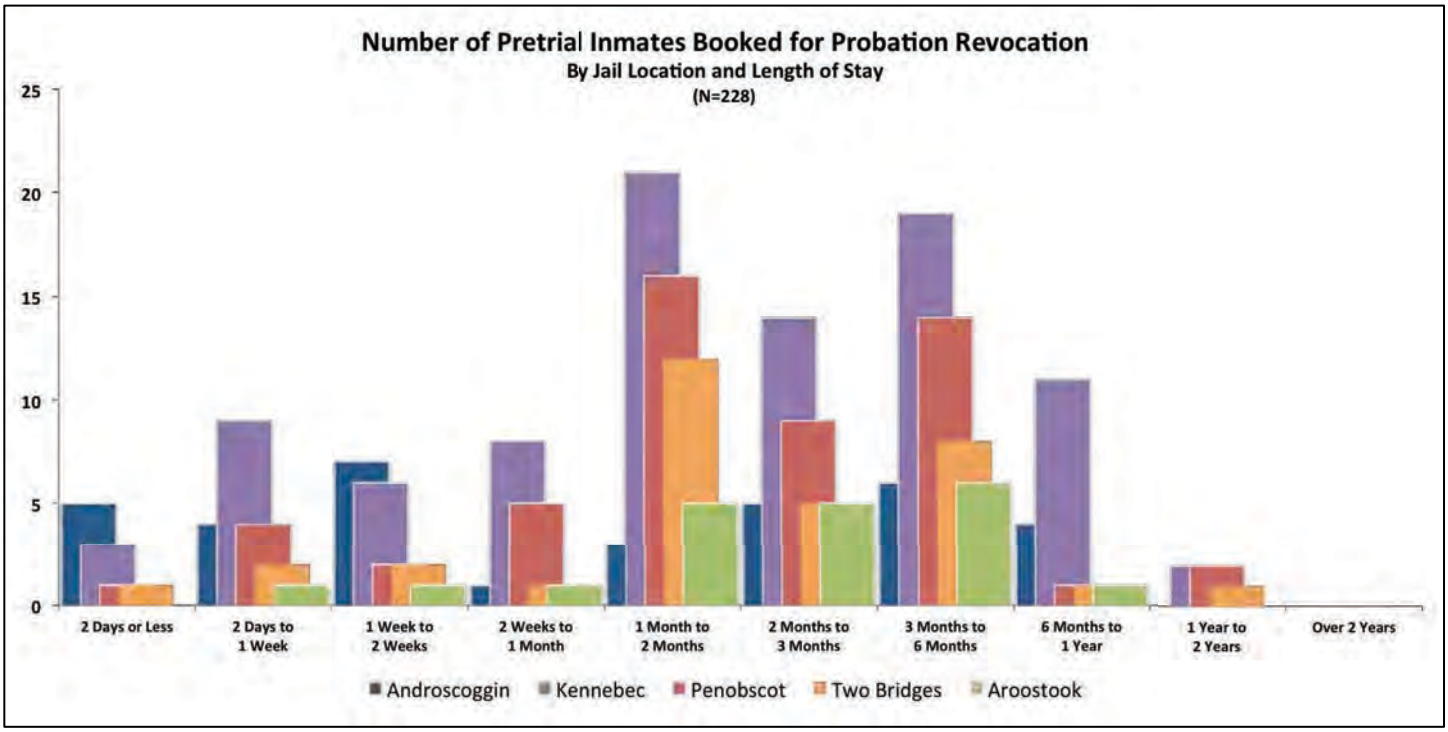


Figure 29. Number of Pretrial Inmates Booked for Probation Revocation, by Jail Location and Length of Stay

Figure 30 illustrates the same information, but for the inmates booked only for probation revocation.

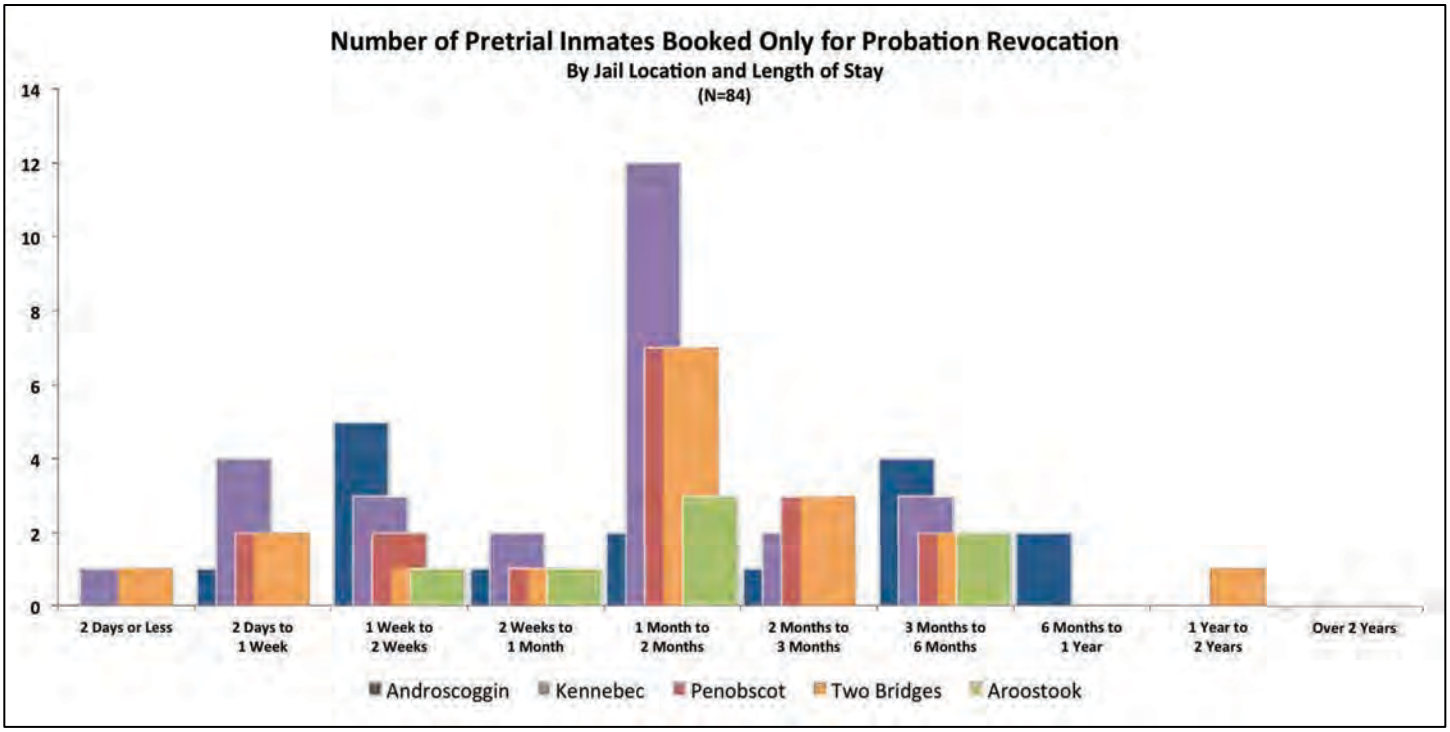


Figure 30. Number of Pretrial Inmates Booked Only for Probation Revocation, by Jail Location and Length of Stay

Figures 31 and 32 show the percentage of inmates booked for probation revocation by length of stay. *For example, over 35% of inmates booked for probation revocation in Two Bridges Regional Jail were held between one and two months.*

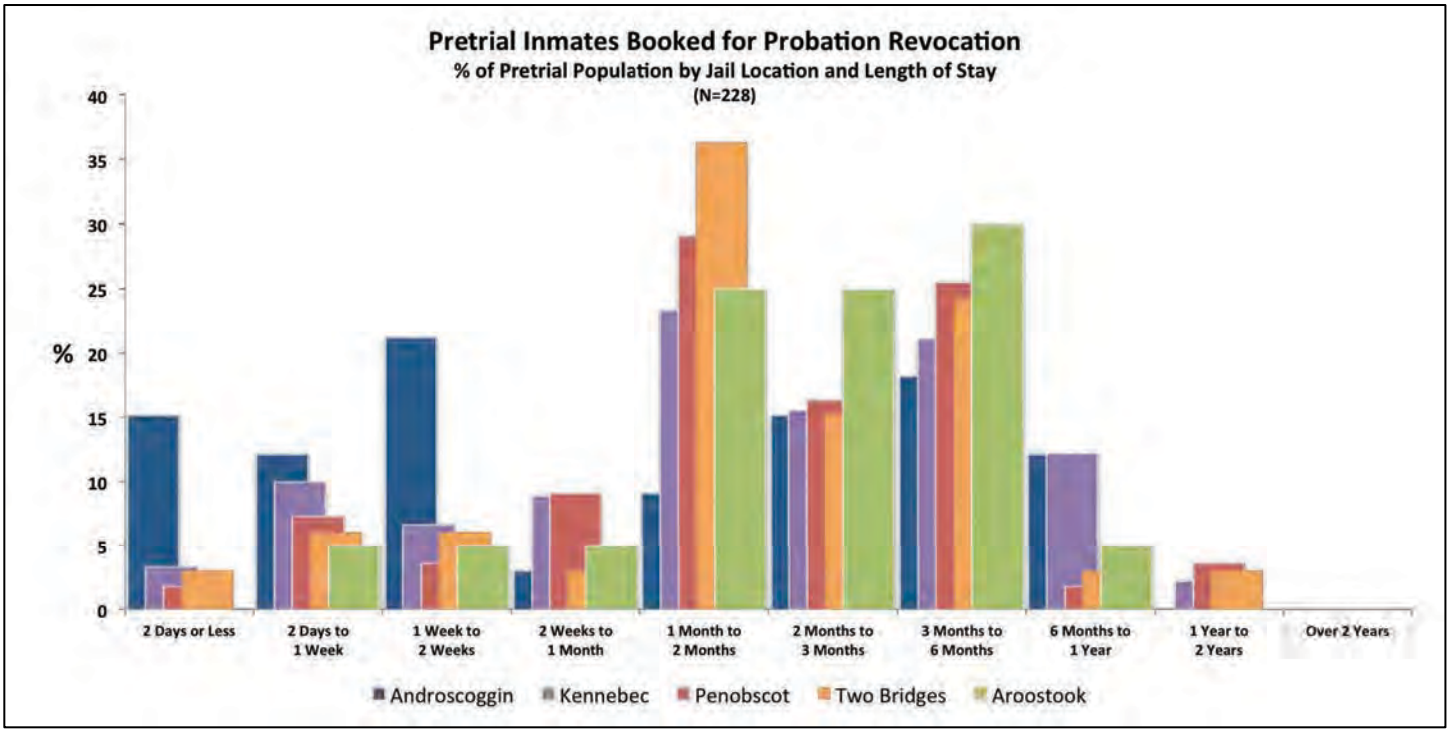


Figure 31. Percent of Pretrial Population Booked for Probation Revocation, by Jail Location and Length of Stay

Figure 32 shows the percentage of inmates booked only for probation revocation.

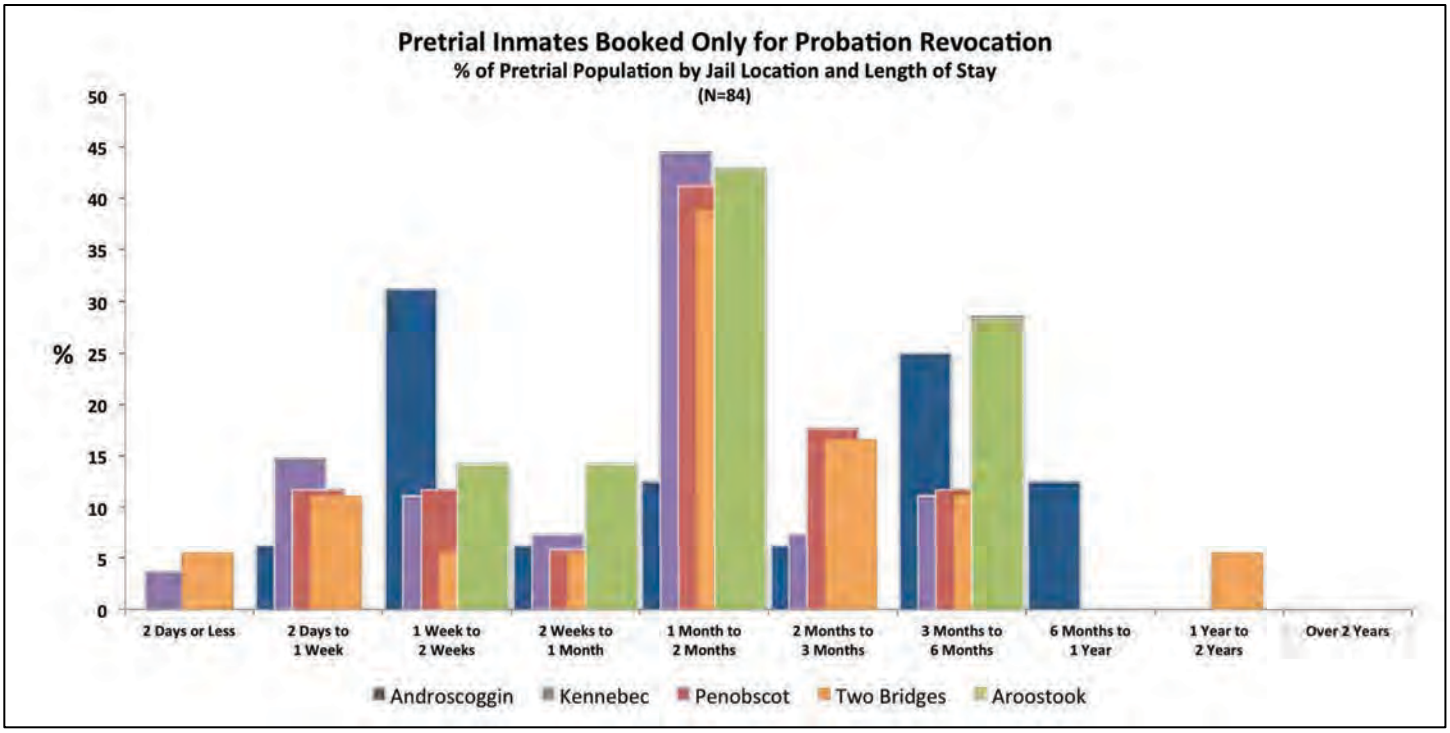


Figure 32. Percent of Pretrial Population Booked Only for Probation Revocation, by Jail Location and Length of Stay

Bail for Probation Revocations

Figure 33 shows the number of inmates booked for probation revocation, grouped by the type of bail set. *Note that some inmates who had a change in bail status during their incarceration may be counted in more than one bar.*

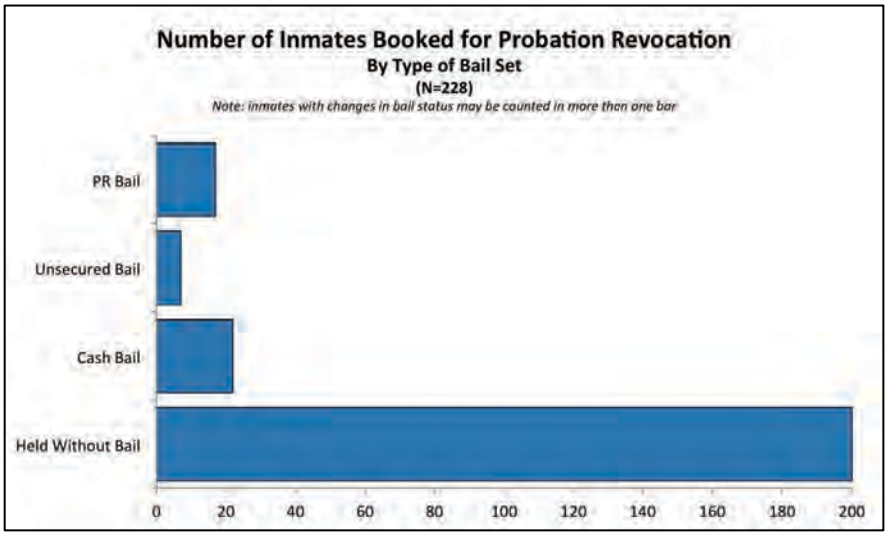


Figure 33. Number of Inmates Booked for Probation Revocation, by Type of Bail Set

Most inmates booked for probation revocations were held without bail for all or a portion of the time the motion to revoke probation was pending (200 out of 228 inmates). Several inmates in the sample were granted personal recognizance (PR) or unsecured bail after a period of being held without bail, for reasons such as bed-to-bed inpatient treatment transfers or acceptance into drug treament court. Others had cash bail amounts set, although jail data does not make it clear how often this bail was actually posted.

Figure 34 shows the proportion of inmates booked for probation revocation who were held without bail, grouped by length of stay.

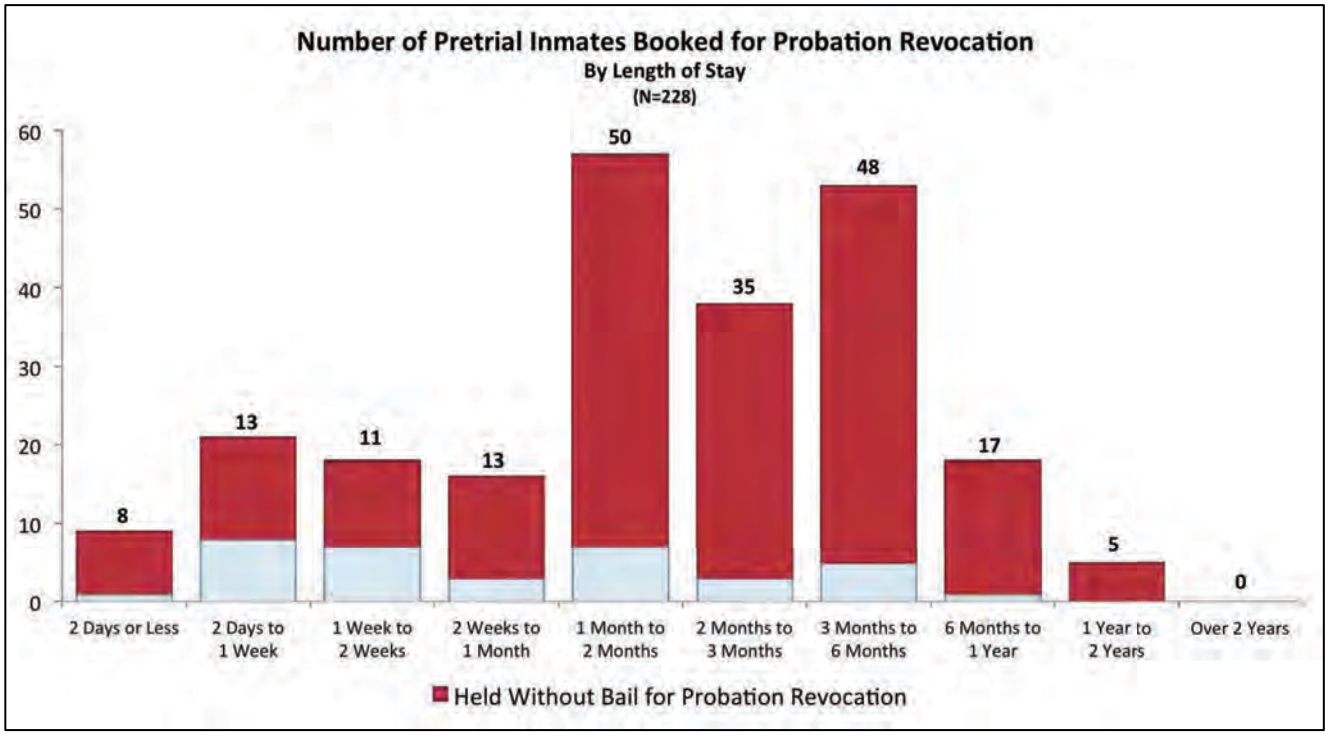


Figure 34. Pretrial Inmates Booked for Probation Revocation and Held Without Bail for That Reason

Specific Charges

The review logged **282 unique charges and 65 distinct offenses** among the 228 pretrial inmates booked for probation revocations. The smaller number of charges is not unusual, as many defendants are only sentenced to probation on a single charge, even if the original charging instrument contained multiple counts. Figure 35 below lists the 20 most common underlying charges in probation revocation bookings. These 20 offenses accounted for **77% of all 282 charges**.

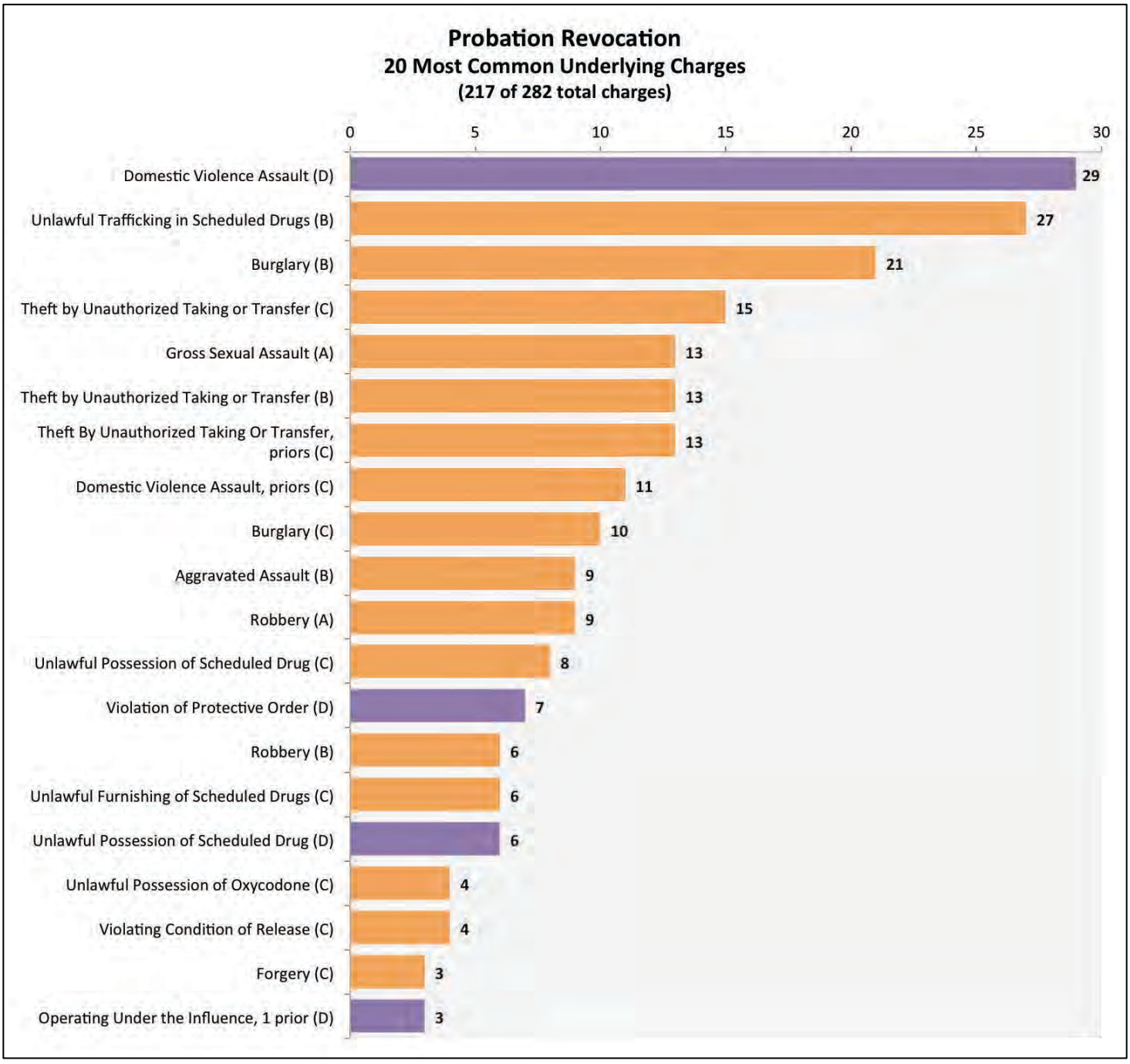
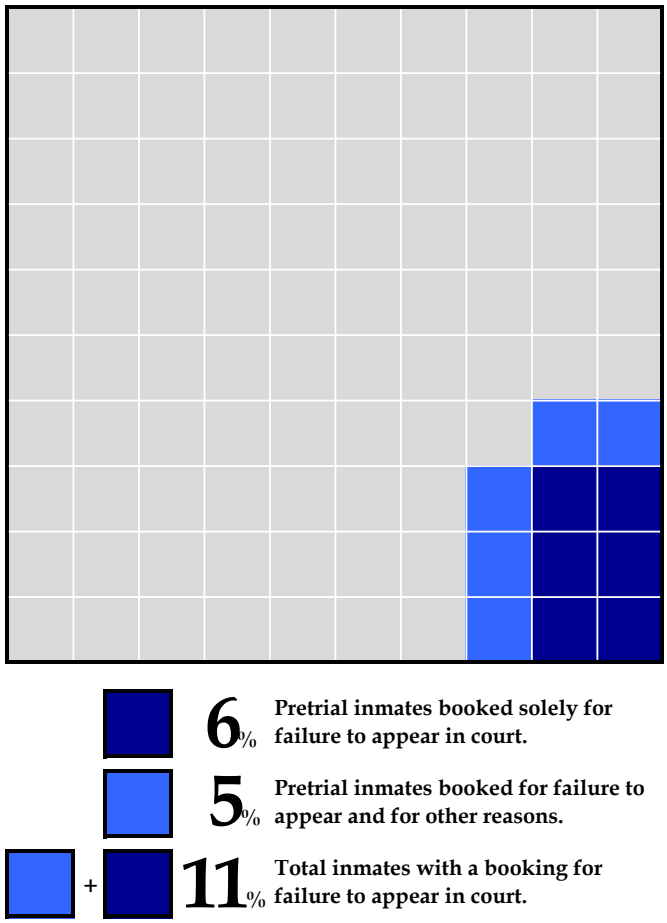


Figure 35. 20 Most Common Underlying Offenses for Probation Revocation Bookings

Failure to Appear in Court

11% of pretrial inmates (166 of the 1,556 individuals) had a booking for previously failing to appear in court (FTA). When a defendant fails to appear for a scheduled court date, the judge may issue a bench warrant and a new bail order. Defendants arrested and booked on the warrants are then either released on bail with a new court date, or appear before a judge within 48 hours to set a new court date and address bail. This category does *not* include inmates booked for failures to appear relating to unpaid fines or unpaid restitution.

91 inmates were booked solely for failing to appear (54% of FTA inmates, 6% of the total sample). The majority of inmates booked for failing to appear only had a single FTA case (139 inmates, 83% of inmates booked for FTA).



Length of Stay

The average (mean) length of stay for inmates held solely for a failure to appear was **9.6 days.**

Shortest Stay: < 1 day

Longest Stay: 211 days

Of the 166 inmates who had a booking for failure to appear:

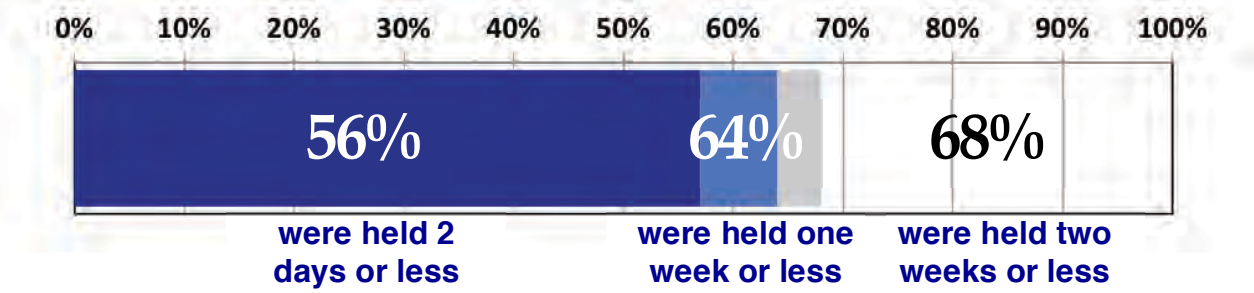


Figure 36 illustrates the number of inmates at each jail with a booking that included failure to appear, grouped by length of stay.

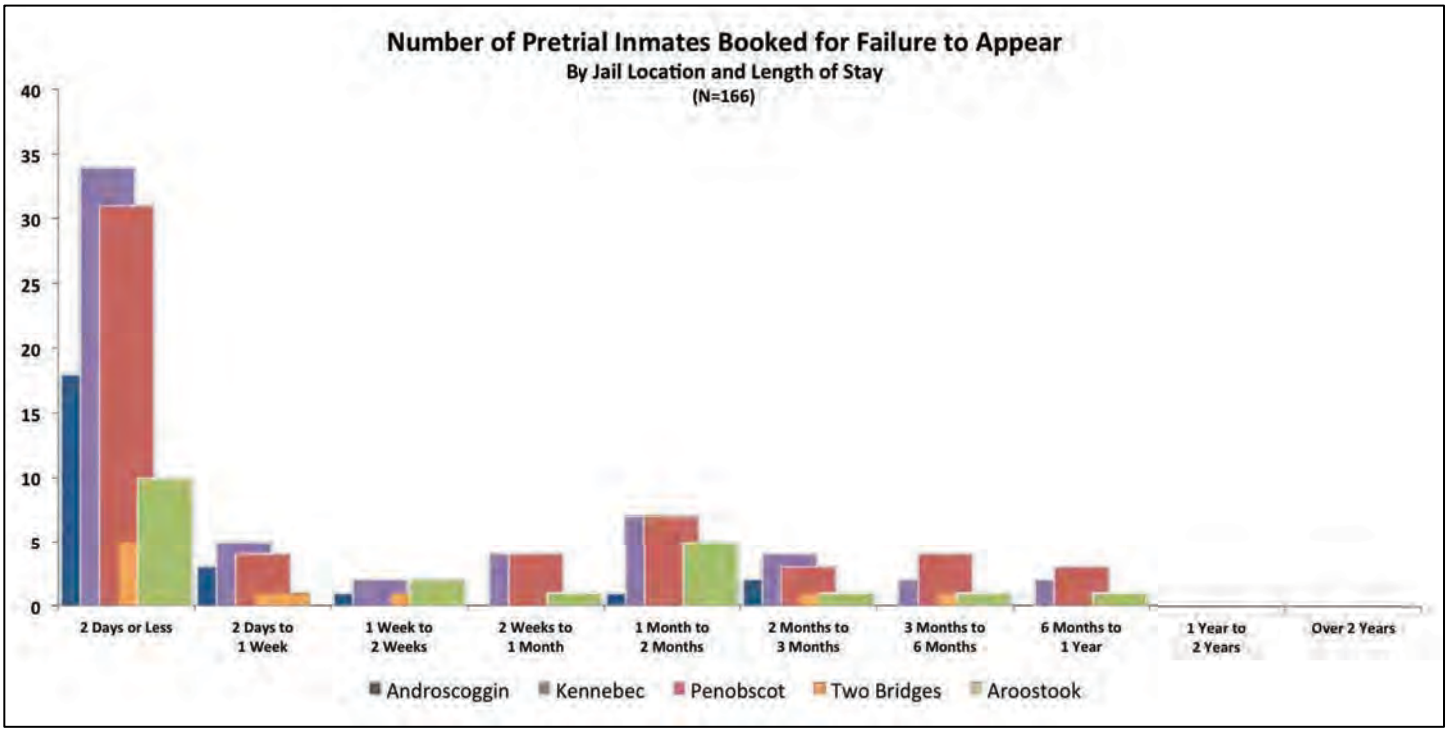


Figure 36. Number of Pretrial Inmates Booked for Failure to Appear, by Jail Location and Length of Stay

Figure 37 illustrates the same information, but for the inmates booked only for failure to appear.

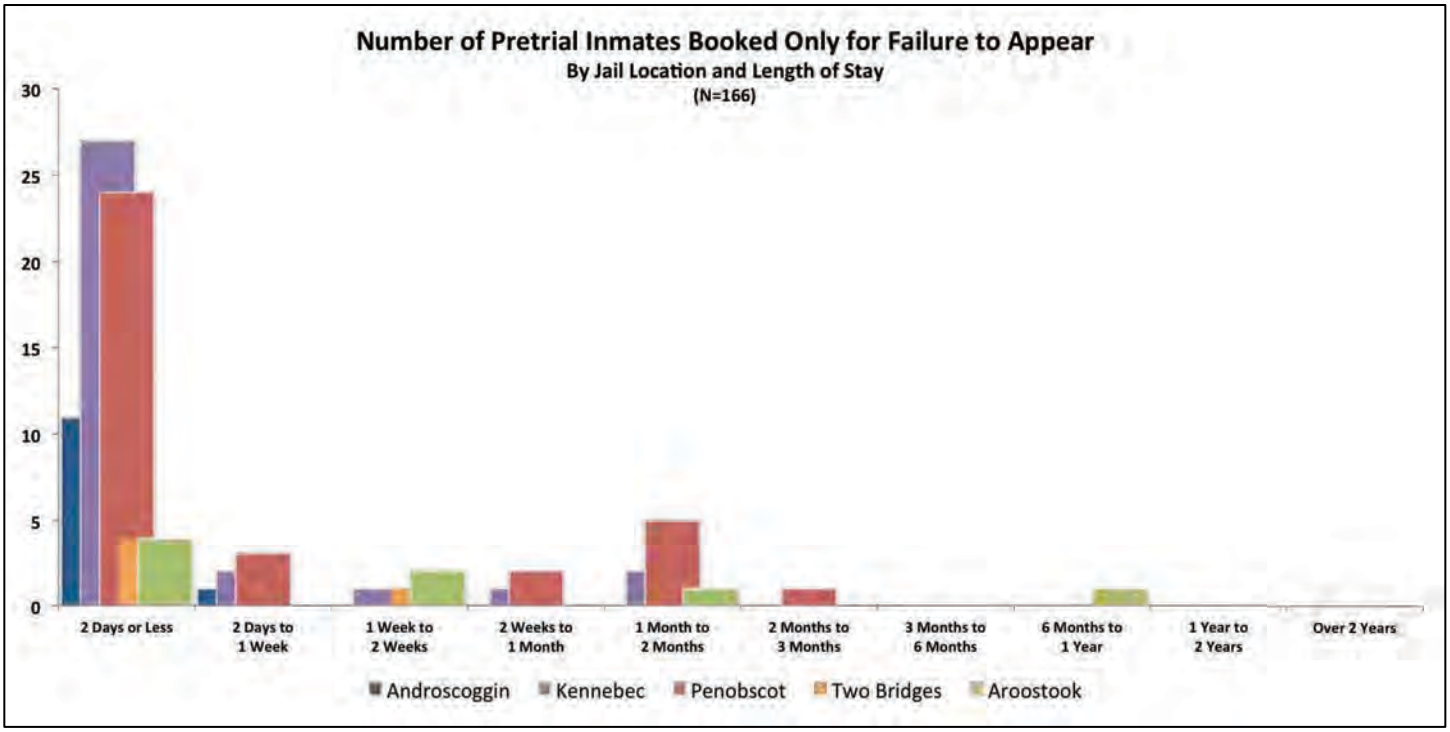


Figure 37. Number of Pretrial Inmates Booked Only for Failure to Appear, by Jail Location and Length of Stay

Figures 38 and 39 show the percentage of inmates booked for failure to appear by length of stay. *For example, 72% of inmates booked for failure to appear in Androscoggin County were held 2 days or less.*

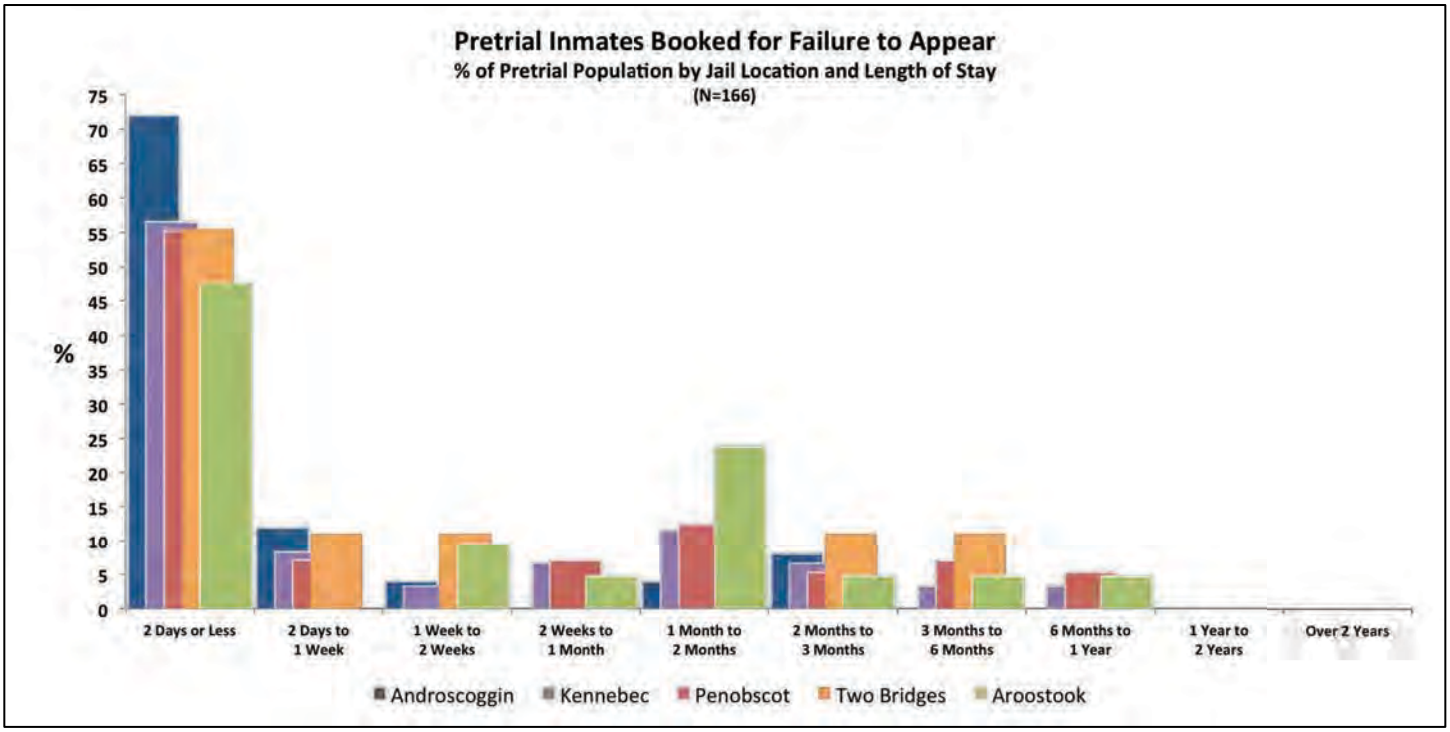


Figure 38. Percent of Pretrial Population Booked for Failure to Appear, by Jail Location and Length of Stay

Figure 39 shows the percentage of inmates booked only for failure to appear.

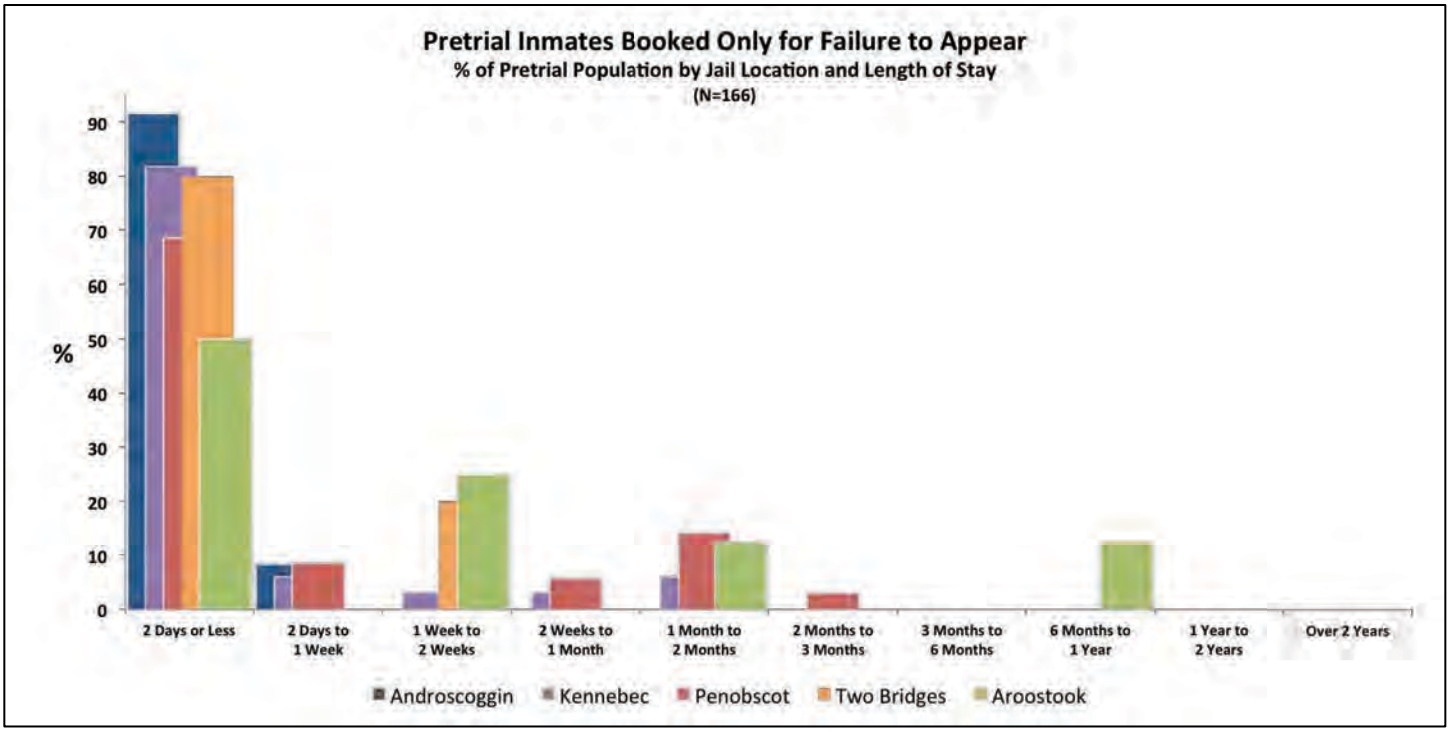


Figure 39. Percent of Pretrial Population Booked Only for Failure to Appear, by Jail Location and Length of Stay

Cash Bail for Failure to Appear

Nearly all inmates booked for failure to appear had some kind of cash bail set on their FTA case (152 of 166 inmates). In many misdemeanor cases, this cash bail may be the first time any bail was set in the case, as the defendant failed to appear for a court date for which he or she had previously been summonsed. As shown in Figure 40, the majority of failure to appear cases had either Class D or E misdemeanor offenses as the most severe charge.

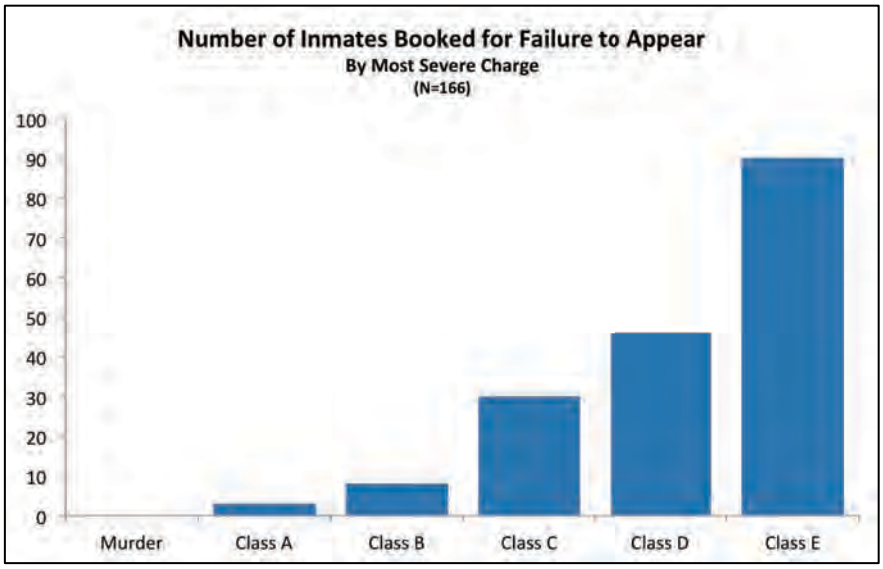


Figure 40. Number of Inmates Booked for FTA by Charge Class

Figure 41 shows the range, average (mean) bail amount, and most common bail amount for **inmates booked for failure to appear in the study sample**. Numbers were calculated using the most severe charge in a case in which cash bail was set, i.e. the bail range and average for Class E are calculated only using cases in which Class E was the highest charge present.

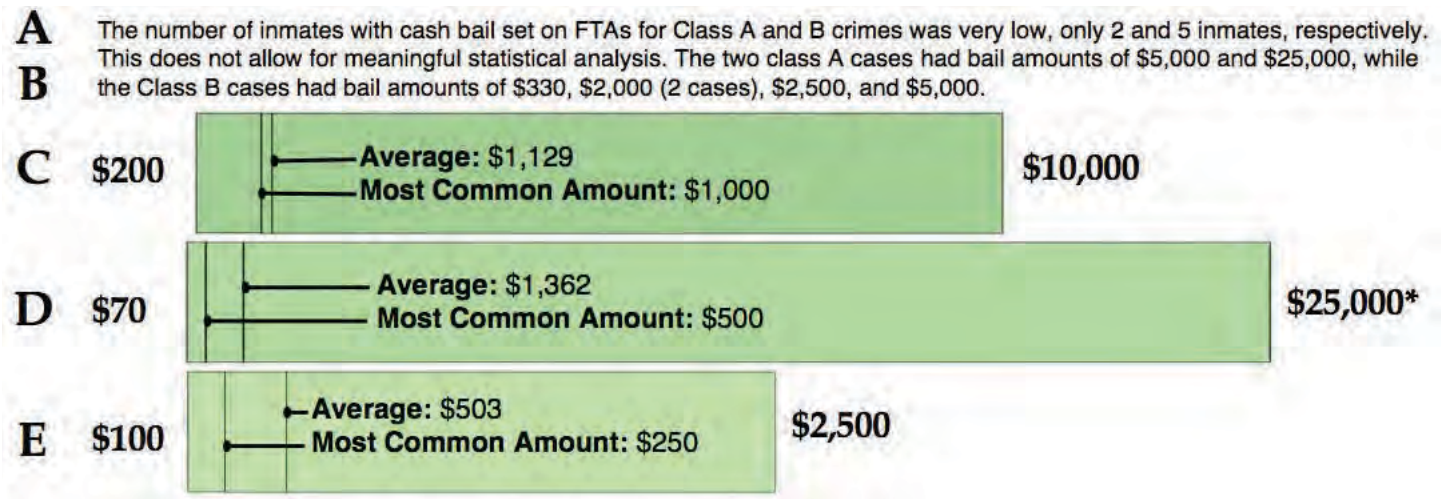


Figure 41. Cash Bail Statistics for Pretrial Inmates Booked for Failure to Appear

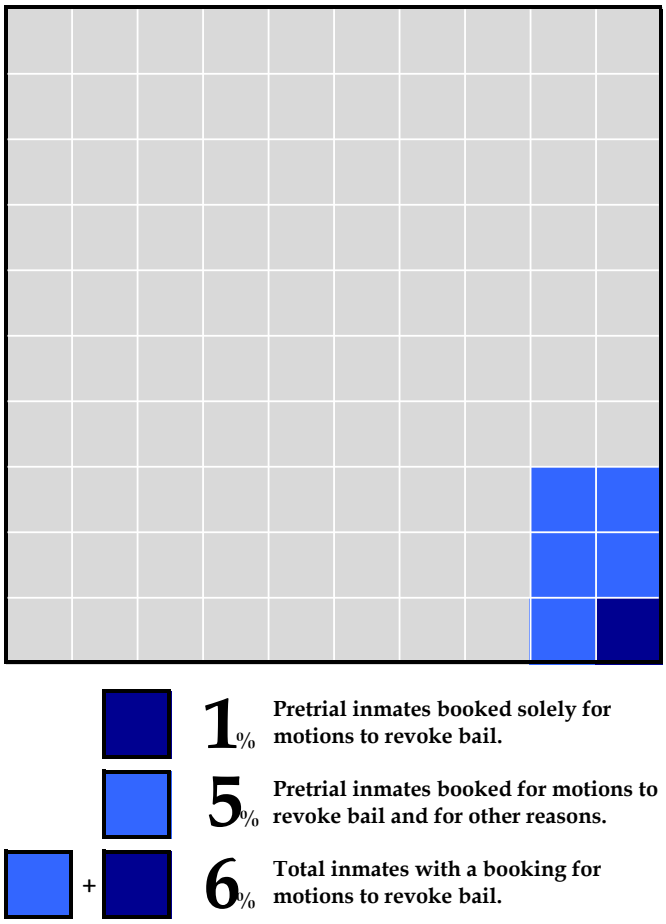
*A single case accounts for the high upper range in Class D cases. This $25,000 bail was set concurrent to another case with a Class A offense. Both cases were 15 years old and had FTA warrants that had been active for over 10 years.

Motions to Revoke Bail

6% of pretrial inmates (93 of the 1,556 individuals) were being held without bail or on bail set on a pending motion to revoke bail. The District Attorney or the court may move to revoke a defendant's bail based on probable cause to believe the defendant has failed to appear for court, has violated a condition of bail, or has been charged with a crime while released on bail.[10] A defendant may be arrested by law enforcement on the motion, or a warrant for violation of bail may be issued by the court.

Inmates who were incarcerated awaiting the disposition of a motion to revoke bail and inmates who were being held without bail after a ruling on a motion were included in this category.[11]

Nearly all inmates with a booking for motion to revoke bail were also booked for another reason (80 inmates, 86% of motion to revoke bail bookings, or 5% of the total sample). Often, new criminal conduct or other arrests are the initiating events that cause a District Attorney to file a motion to revoke bail.



Length of Stay

The average (mean) length of stay for inmates held solely on a motion to revoke bail was **87.1 days.**

Shortest Stay: 1 day

Longest Stay: 363 days

[10] See 15 M.R.S. §§ 1095 and 1096.

[11] Not included, however, were inmates who were granted post-conviction bail during a stay of execution of a sentence.

Figure 42 illustrates the number of inmates at each jail with a booking that included a motion to revoke bail, grouped by length of stay.

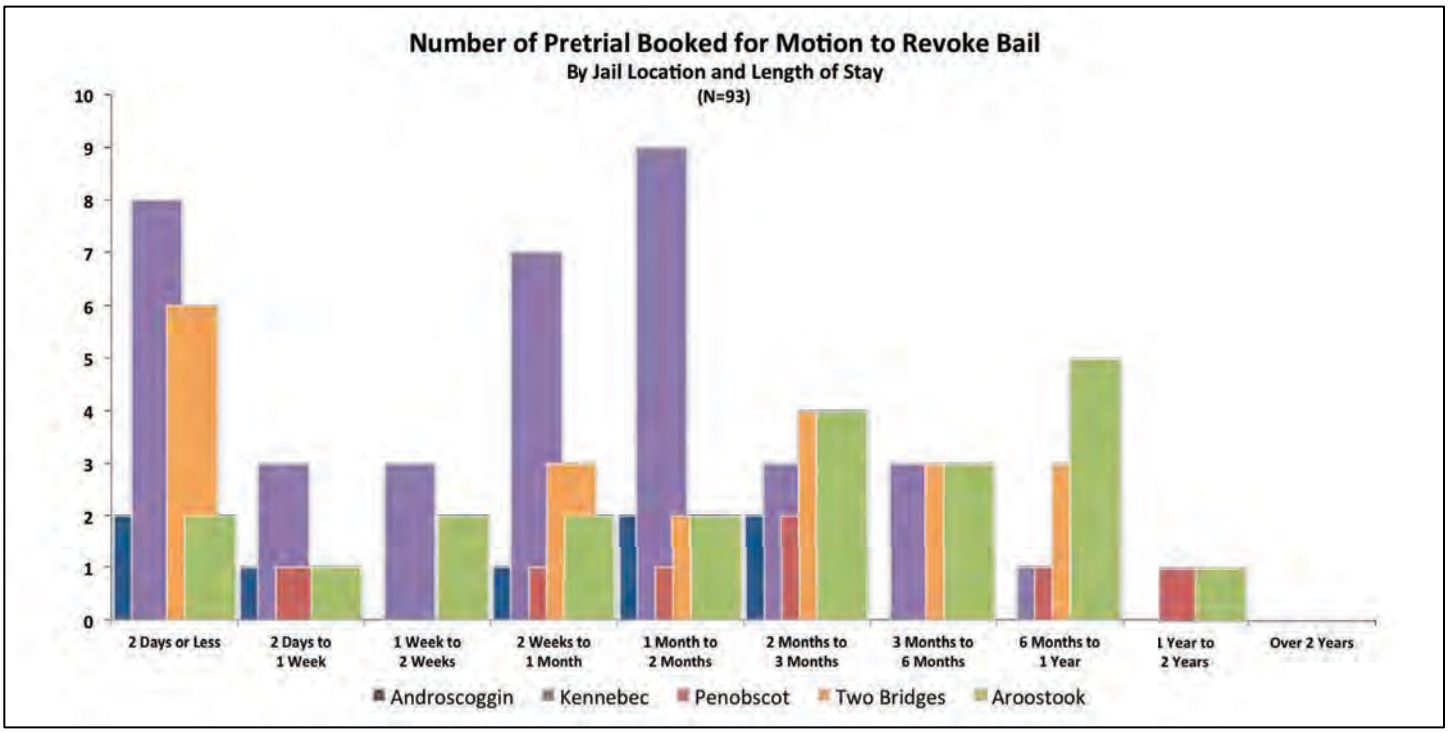


Figure 42. Number of Pretrial Inmates Booked for Motion to Revoke Bail, by Jail Location and Length of Stay

Figures 43 shows the percentage of inmates booked for motions to revoke bail by length of stay.

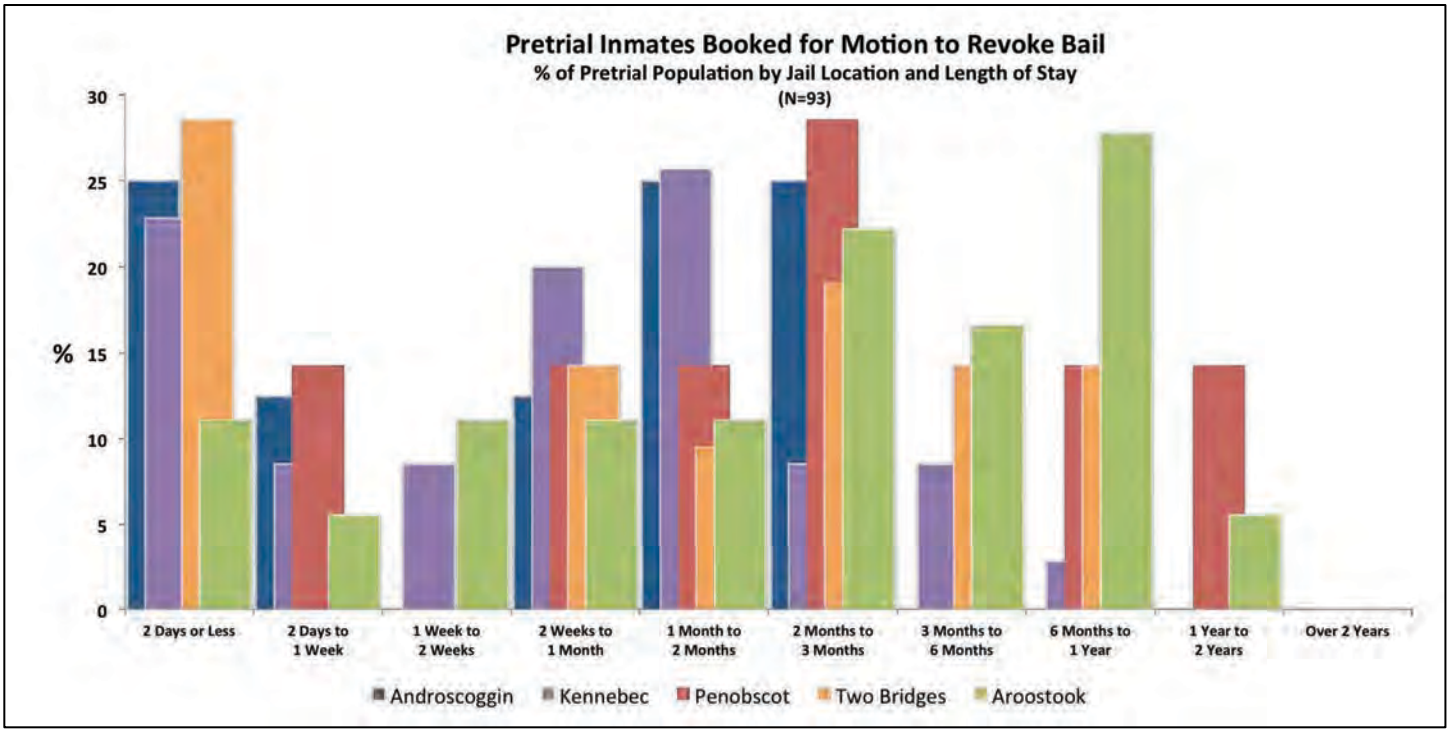


Figure 43. Percent of Pretrial Population Booked for Motions to Revoke Bail, by Jail Location and Length of Stay

Bail for Motions to Revoke Bail

Figure 44 shows the number of inmates booked for motions to revoke bail, grouped by the type of bail set. *Note that some inmates who had a change in bail status during their incarceration may be counted in more than one bar.*

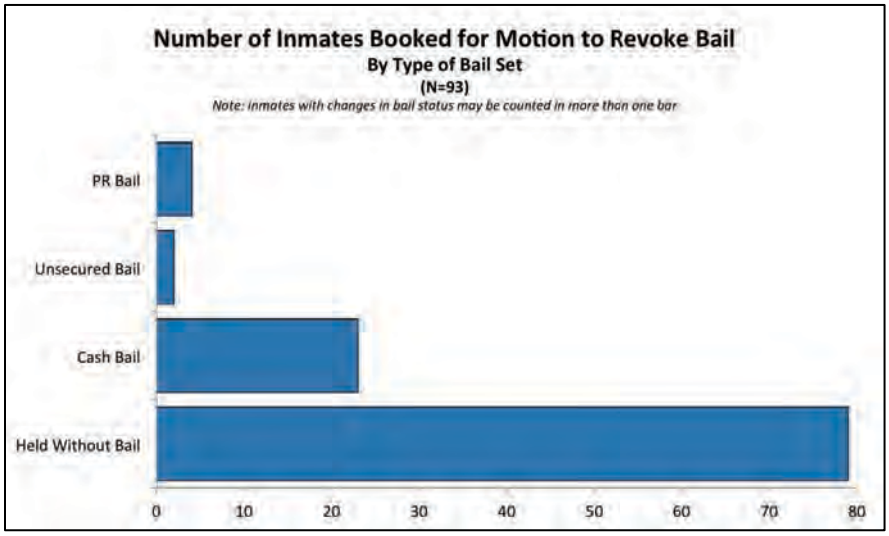


Figure 44. Number of Inmates Booked for Motion to Revoke Bail, by Type of Bail Set

As with probation revocations, most inmates booked for motions to revoke bail were held without bail for all or a portion of the time the motion was pending (79 out of 93 inmates). 15 M.R.S. § 1097 requires judicial officers to make specific findings before bail can be re-set after a motion has been granted, and absent those findings, to issue an order denying bail.

Figure 45 shows the proportion of inmates booked for motions to revoke bail who were held without bail, grouped by length of stay.

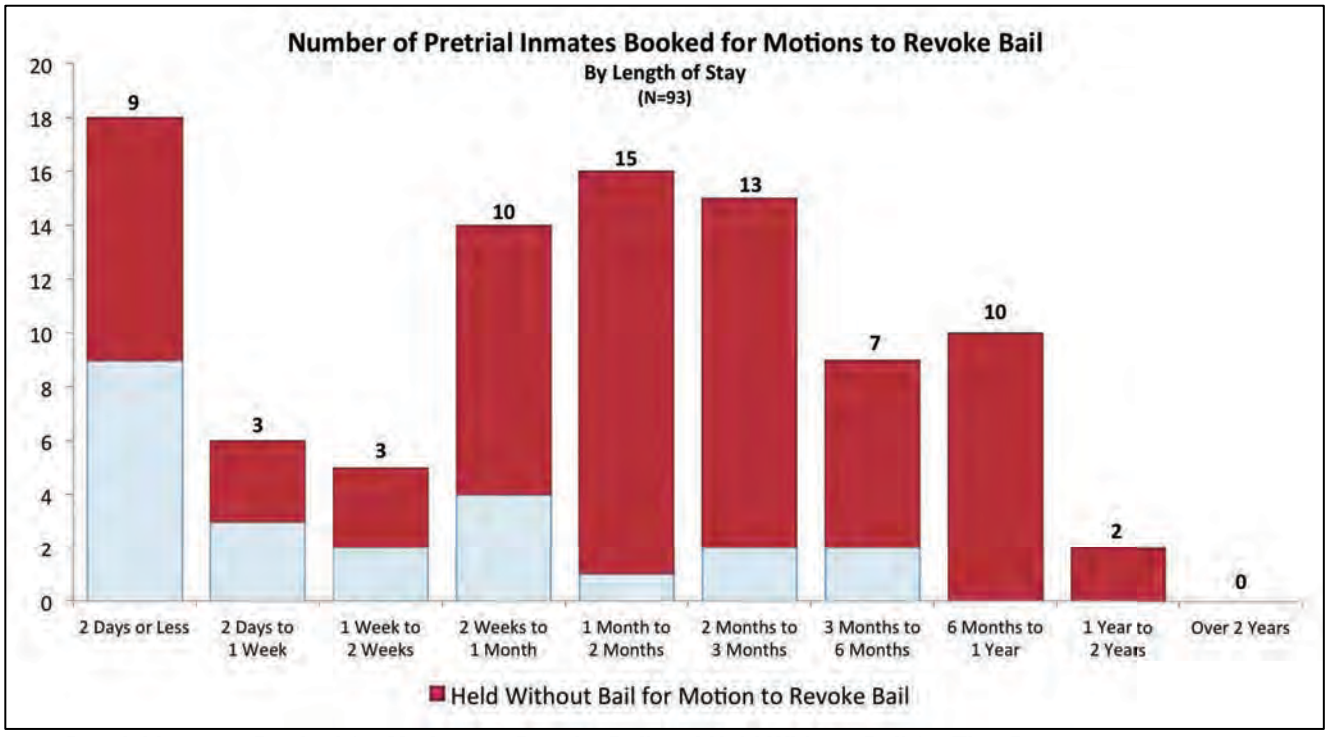


Figure 45. Pretrial Inmates Booked for Motions to Revoke Bail and Held Without Bail for That Reason

Specific Charges

The review logged **237 unique charges and 83 distinct offenses** among the 93 pretrial inmates booked for motions to revoke bail. Figure 46 below lists the 20 most common underlying charges in motion to revoke bail bookings. These 20 offenses accounted for **57% of all 237 charges**.

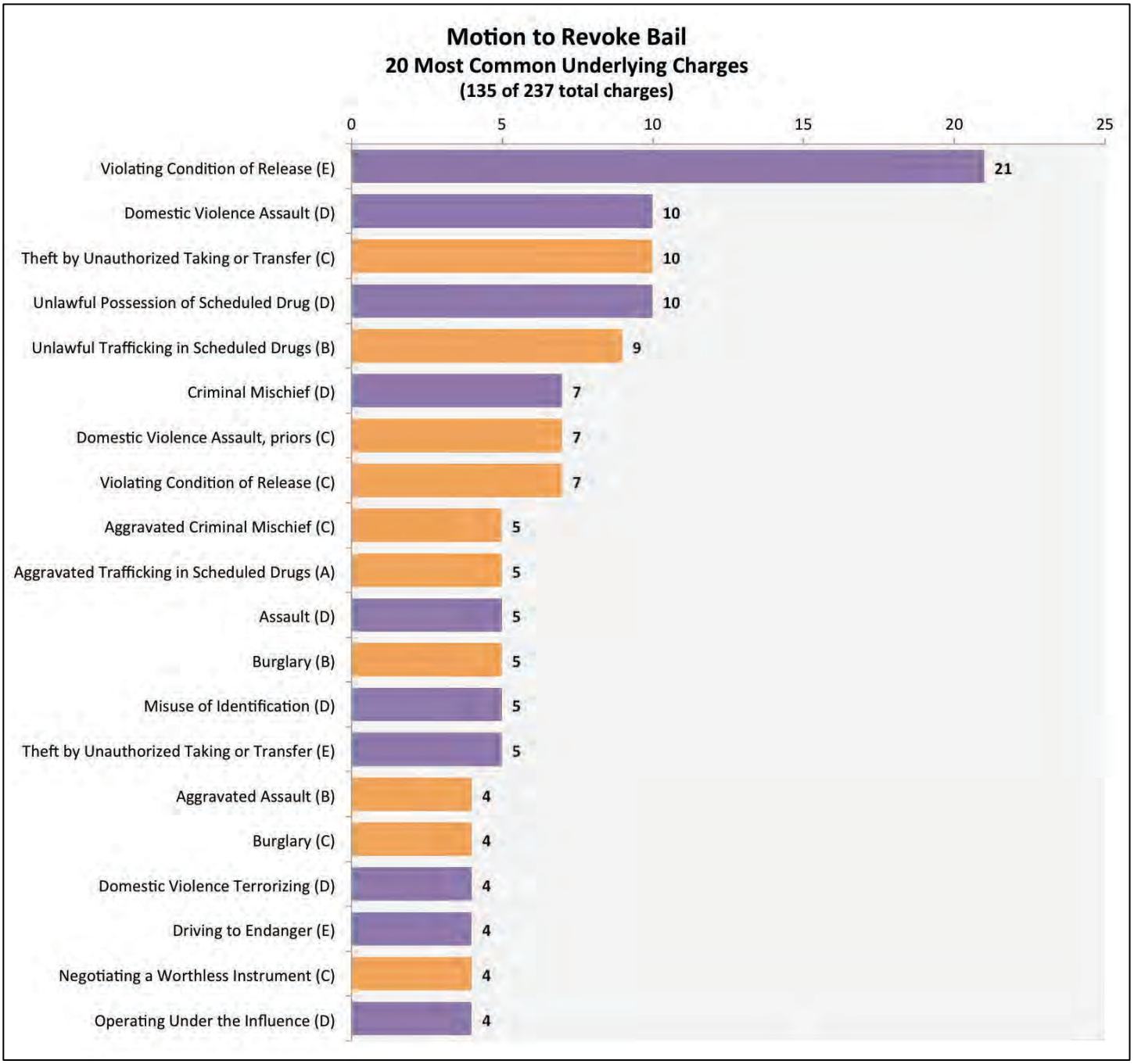
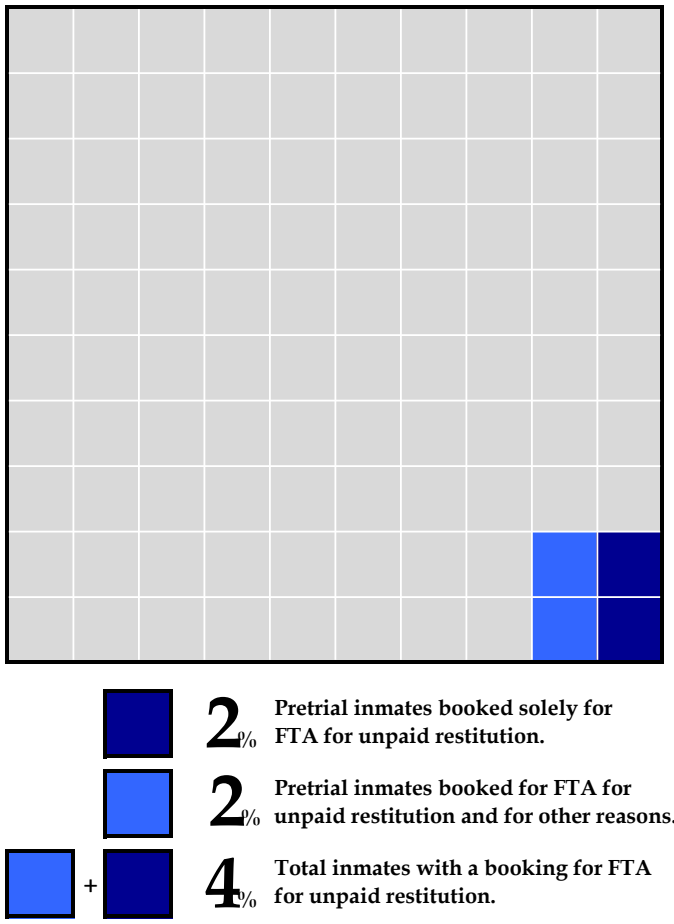


Figure 46. 20 Most Common Underlying Offenses for Motion to Revoke Bail Bookings

Failure to Appear for Unpaid Restitution

4% of pretrial inmates (55 of the 1,556 individuals) had failure to appear (FTA) for unpaid restitution listed as a reason in their booking records. When a defendant is ordered to pay restitution as part of a sentence, the primary responsibility for collecting restitution falls to District Attorenys' Offices and the Department of Corrections. If a defendant fails to pay their restitution according to the schedule or by the deadline set by the court, the DA can file a Motion to Enforce Payment of Restitution. If the defendant fails to appear at a "show cause" hearing, a warrant may be issued by the court, often with cash bail set for the remaining restitution balance owed.

27 inmates were booked solely for FTA for unpaid restitution (49% of FTA for unpaid restitution bookings, or 2% of the total sample).



Length of Stay

The average (mean) length of stay for inmates held solely on FTA for unpaid restitution was **2.9 days.**

Shortest Stay: 1 day

Longest Stay: 29 days

Of the 166 inmates who had a booking for FTA for unpaid restitution:

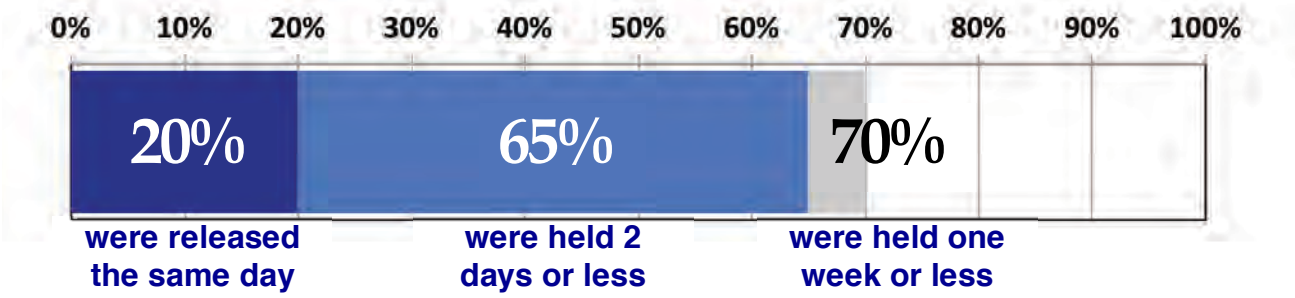


Figure 47 shows the number of pretrial inmates in the total sample booked for FTA for unpaid restitution, grouped by length of stay and divided among those booked solely for FTA for unpaid restitution and those who had other booking reasons, as well. The majority of FTA for unpaid restitution inmates are quickly released, while those with longer stays have other booking reasons that may contribute to overall length of stay.

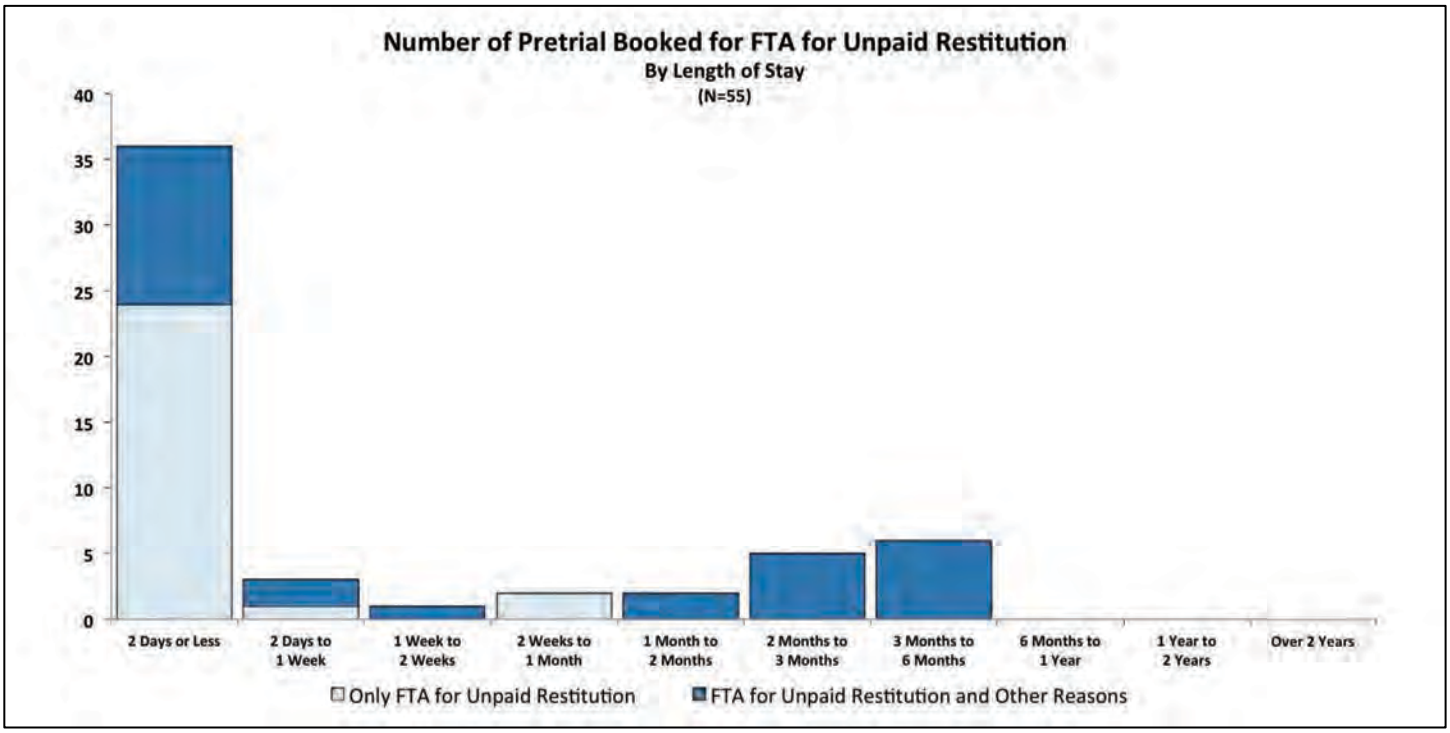


Figure 47. Number of Pretrial Inmates Booked for FTA for Unpaid Restitution, by Length of Stay

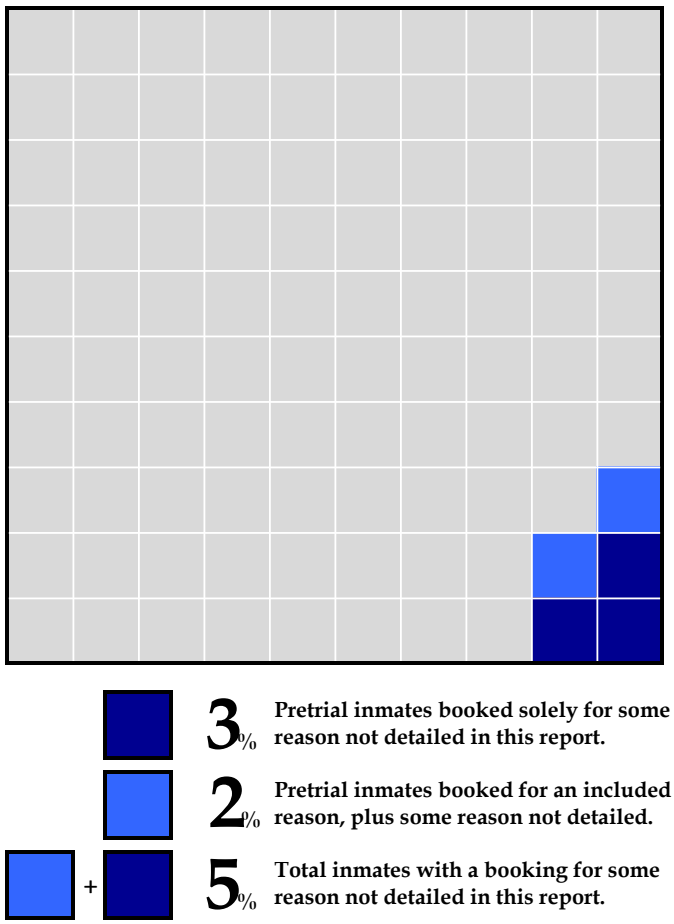
Bail for FTA for Unpaid Restitution

A detailed analysis of cash bail amounts and conditions was not undertaken for FTA for unpaid restitution cases because the amount of bail set usually reflects the balance remaining on the defaulted restitution obligation. Because bail amounts are so closely tied to the specific details of each case, looking at these bail amounts together reveals little about how bail decisions in these cases affect the length of an inmate's stay in jail.

Other Reasons

5% of pretrial inmates (77 of the 1,556 individuals) had a booking for a reason other than those detailed in this report.

In addition to those reasons already detailed, there are several other reasons why an inmate may be present at a jail but not serving a sentence. Inmates that fell into these categories were small in number, often so small that meaningful analysis would not be possible. Additionally, some reasons for incarceration were not relevant to the aims of this report, such as inmates held on federal detainers or Department of Corrections inmates brought to jails on writs to attend court hearings.



The following reasons of incarceration are included in the "Other" category (number of inmates is listed in paratheses):

- **Writ (29)**
- **Federal Detainer (20)**
- **Fugitive from Justice (13)**
- **Drug Court Sanctions (3)**
- **Motion to Terminate Deferred Disposition (3)**
- **Contempt of Court (2)**
- **Motion to Revoke Administrative Release (2)**
- **Hold for CARA Program (1)**
- **Hold for Transfer to Another Facility (1)**

Pretrial Inmate Demographics

The final sample consisted of 1,556 unique pretrial inmates who were incarcerated during the month of April 2015. Each individual was counted only a single time, regardless of whether he or she was booked more than once during April, or booked in more than one jail location. The determination of which inmates qualified as "pretrial" was based on the status that was assigned by the jail to each inmate at the time the inmate was booked.

Age and Gender

Figure 48 shows the total sample of pretrial inmates, grouped by age and gender.

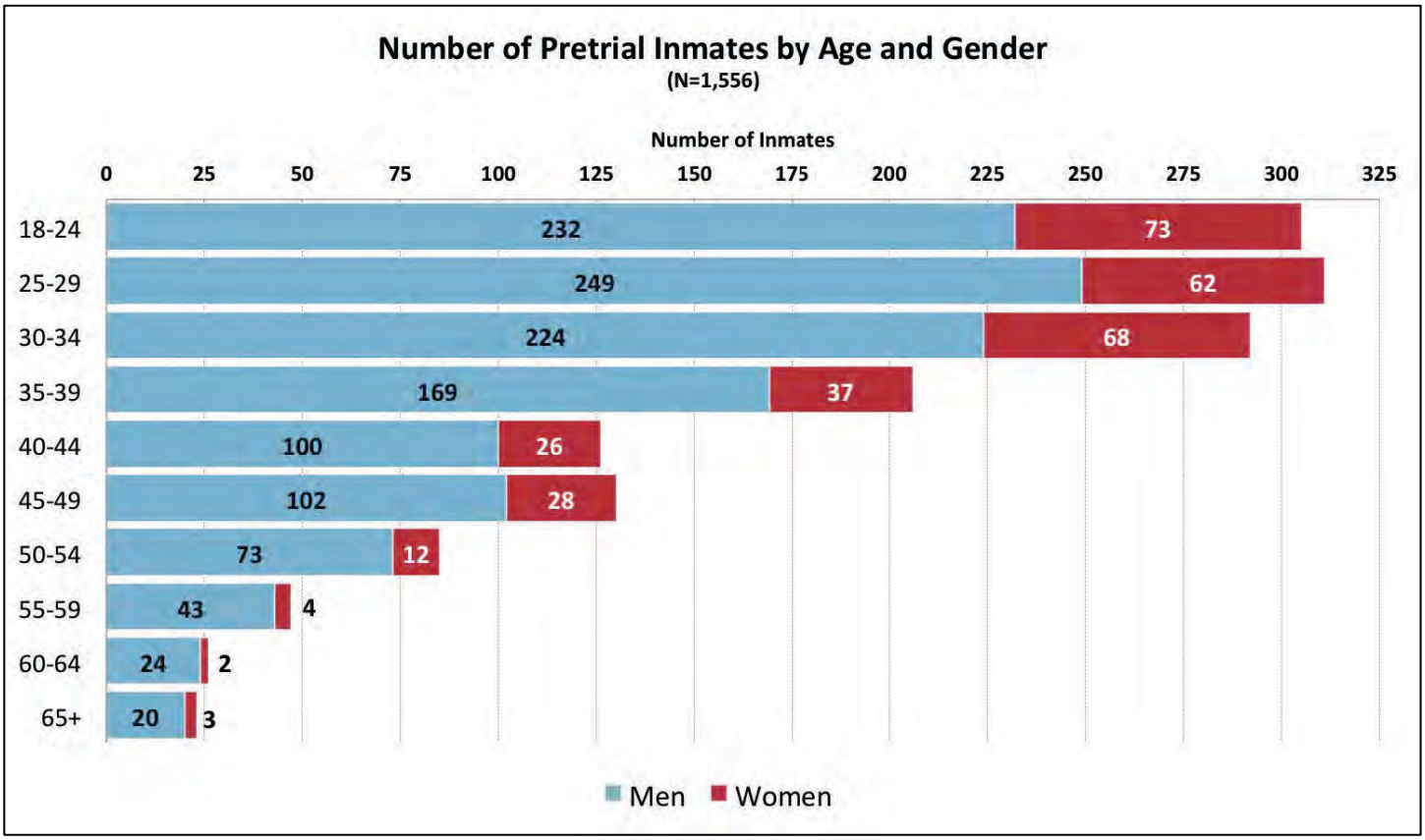


Figure 48. Number of Pretrial Inmates by Age and Gender

79% of the total sample (1,236 inmates) were men, and 21% (315 inmates) were women. Roughly 58% of the total sample were under the age of 35 at the time of booking, with inmates aged 25-29 comprising the largest age group. The review did not consider any juveniles being held in the county jail system, though adult inmates may have been booked for reasons related to prior juvenile (JV) cases, such as unpaid fine or restitution obligations.

Race

Figure 49 illustrates the recorded race of pretrial inmates reviewed, for the total sample and within each of the five jails. Differences in jail policies and booking systems may have contributed to how race was recorded in bookings, most notably in the Hispanic/Latino category.

Note that race information was not recorded in the booking information for 9 inmates.

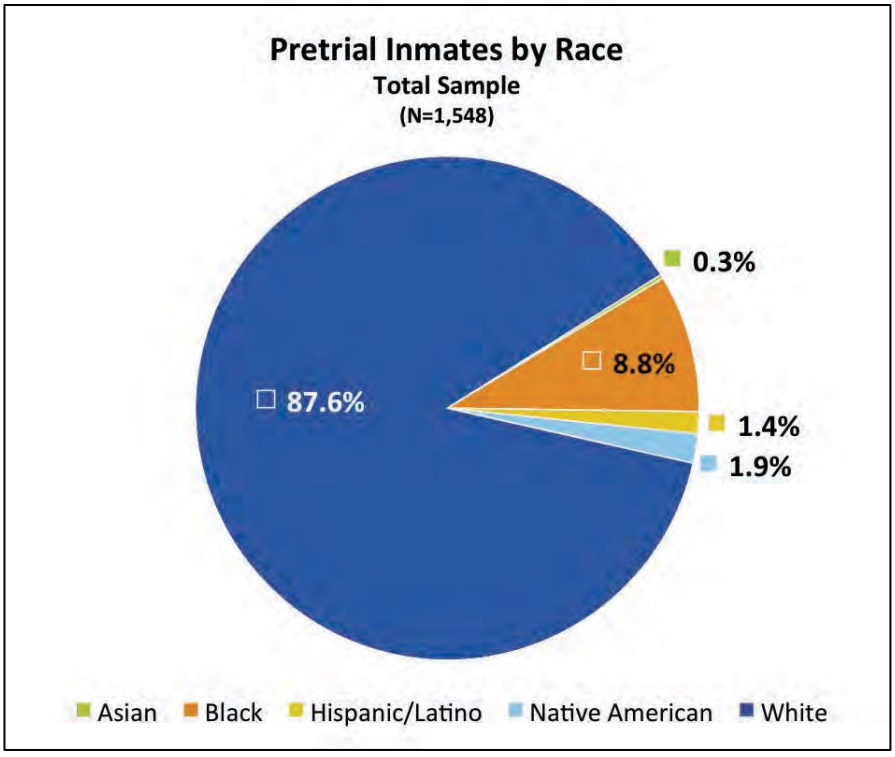
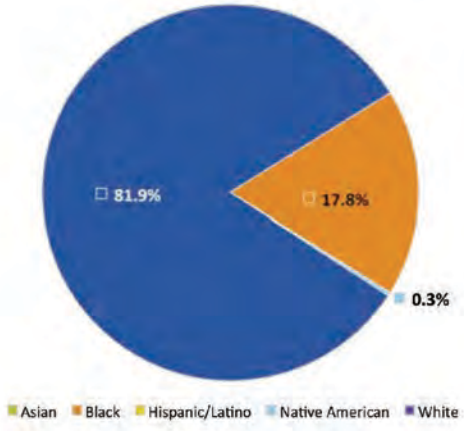
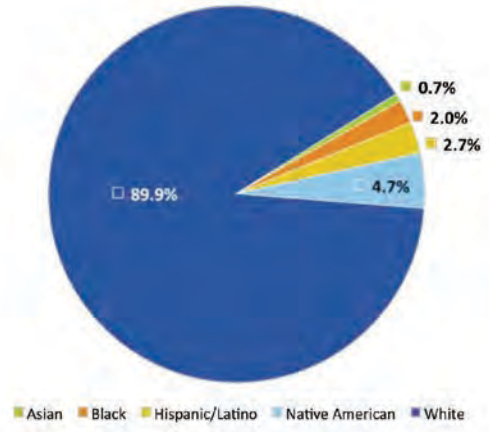


Figure 49. Pretrial Inmates by Race

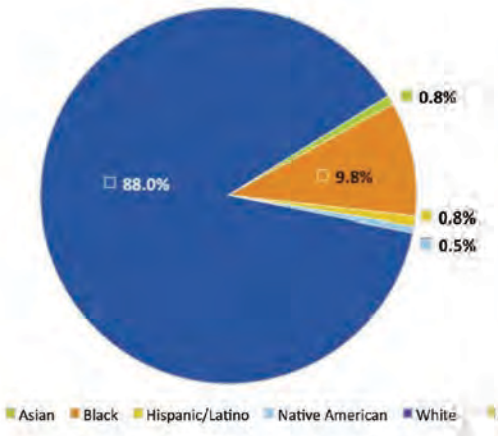
Androscoggin County Jail



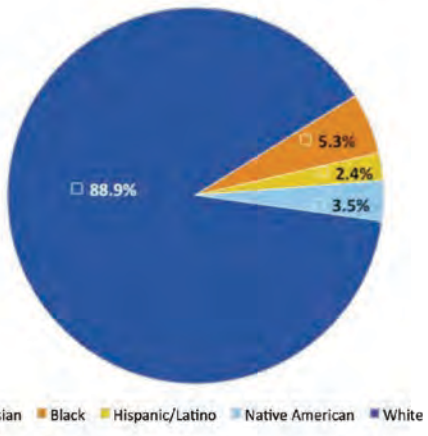
Aroostook County Jail



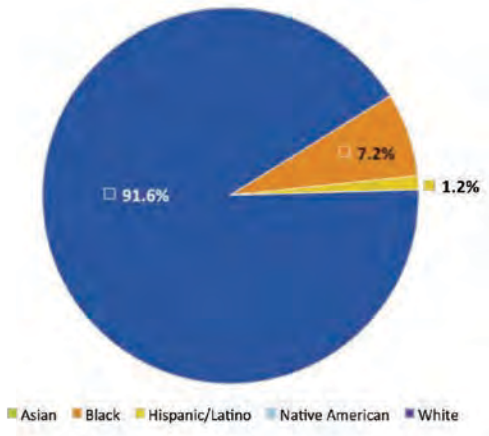
Kennebec County Jail



Penobscot County Jail



Two Bridges Regional Jail



Place of Residence

Figure 50 shows the number of pretrial inmates at each of the jails visited, grouped by their place of residence. For Maine residents, this is further divided into inmates who live within the county or counties served by the jail, and inmates who live in outside counties. *Note that some individuals who were booked in more than one jail may be counted in more than one bar. A small number of inmates are not included due to insufficient booking data. Inmates with blank residences, or residences marked "Transient", "Other" or "Out of Town" were not included.*

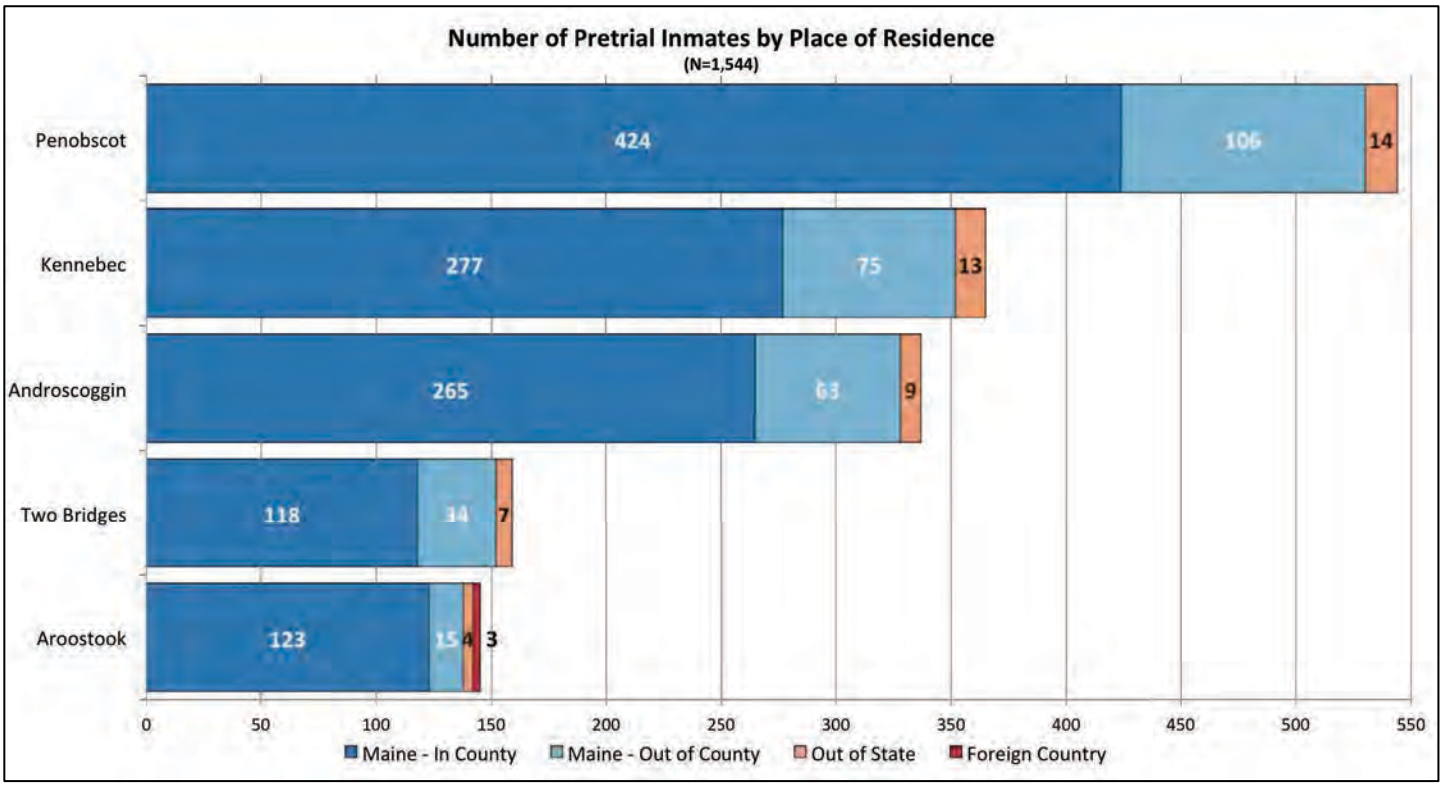


Figure 50. Number of Pretrial Inmates by Place of Residence

97% of pretrial inmates reviewed were Maine residents[12]. Only 50 inmates (3%) listed residences in other states, and only 3 inmates (0.2%) had residences from other countries (all three were from Canada, and were held in Aroostook County Jail). Within each of the five jails visited, over 95% of the pretrial population were inmates with Maine residences.

[12] Twelve inmates had no residence information listed, and were not included in these statistics.

Appendix D

Timeframes for Payment of Fines

Fine payment data for 143,003 criminal cases with fines imposed between fiscal years (FY) 2011 and FY 2014[1] was analyzed in an effort to uncover and visualize trends or patterns in the Judicial Branch's fine collection efforts.

The data gathered included the total fine amount[2] for any case with a fine imposed during each fiscal year, as well as any amount collected by the Judicial Branch at five time intervals: 30 days after the fine was imposed, 90 days after imposition, 120 days after imposition, 180 days after imposition, 1 year after imposition, and the amount collected as of the date of the report (late August 2015). Also gathered were any jail or community service credits receipted in each case.

Some points about the data:

- This data only tracks payments against fines *imposed during* a fiscal year. It does not represent all fine revenue collected by the Judicial Branch over the course of a particular fiscal year.
- The data only includes fines assessed in criminal cases, and does not include amounts assessed in civil violation cases or civil traffic infractions.
- The means of payment is not distinguished in the data sample—any receipt against an outstanding balance is included. This may include regular payments, setoff cash bail, credits, etc.
- Jail credit is any credit received against a fine for time a defendant spent incarcerated in relation to that fine, as described in 17-A M.R.S. § 1304. Community service credit is credit received against a fine for public service work completed by a defendant.

Statewide Payment of Criminal Fines – Fines Paid in Full

The chart below shows the statewide figures for cases with fines imposed during each fiscal year, and the percentage of cases that were paid in full within each time frame. The last four columns show the payment amounts represented by jail credit and community service credit, along with the percentage these credits represent of the total amount imposed.

FY	# Cases with Fines	Total Amount Imposed	% 30 days	% 90 days	% 120 days	% 180 days	% 1 year	% to Date	Jail Credit (JC)	JC - % of Total Fines	Community Service Credit (CS)	CS - % of Total Fines
2011	35,632	$14,445,663.76	40.0	49.8	53.7	60.4	73.8	90.5	$122,550.44	0.85	$28,870.66	0.20
2012	35,895	$13,816,584.05	38.4	48.6	52.5	58.5	70.7	87.6	$105,367.23	0.76	$13,964.05	0.10
2013	36,400	$13,070,627.75	37.4	47.6	51.1	57.5	69.9	83.2	$82,964.17	0.63	$13,908.49	0.11
2014	35,076	$12,837,562.81	35.2	45.6	49.5	56.1	69.1	76.4	$55,332.84	0.43	$15,216.00	0.12
Total	**143,003**	**$54,170,438.37**	**37.7**	**47.9**	**51.7**	**58.2**	**70.9**	**84.4**	**$366,214.68**	**0.68**	**$71,959.20**	**0.13**

Statewide Payment of Criminal Fines – No Recorded Payments

The chart below shows the percentage of cases each fiscal year that had no recorded payments within each time frame, as well as the total amount outstanding as of the date of the report (August 2015).

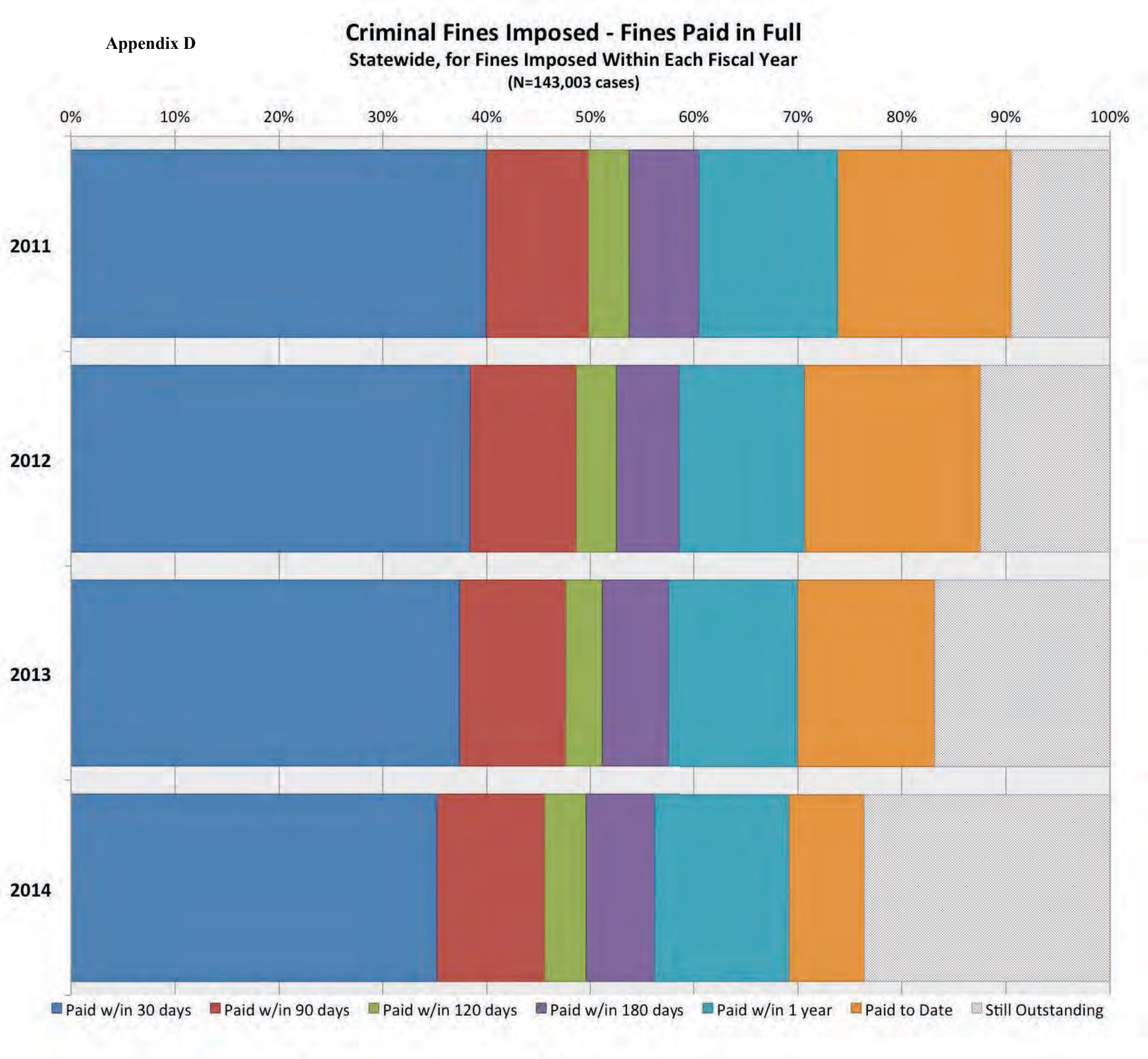
FY	# Cases with Fines	Total Amount Imposed	% After 30 days	% After 90 days	% After 120 days	% After 180 days	% After 1 year	% No Payments to Date	Total Amount Outstanding to Date*
2011	35,632	$14,445,663.76	38.7	25.3	22.4	18.3	11.7	3.7	$1,251,338.14
2012	35,895	$13,816,584.05	41.5	28.1	25.0	21.0	14.8	6.0	$1,583,941.64
2013	36,400	$13,070,627.75	43.4	30.2	27.2	23.2	16.7	9.3	$1,889,151.04
2014	35,076	$12,837,562.81	44.9	31.7	28.4	24.1	17.0	13.2	$2,685,214.56
Total	**143,003**	**$54,170,438.37**	**42.1**	**28.8**	**25.6**	**21.6**	**15.0**	**8.0**	**$7,409,645.38**

**Includes all balances due, including cases with partial payments.*

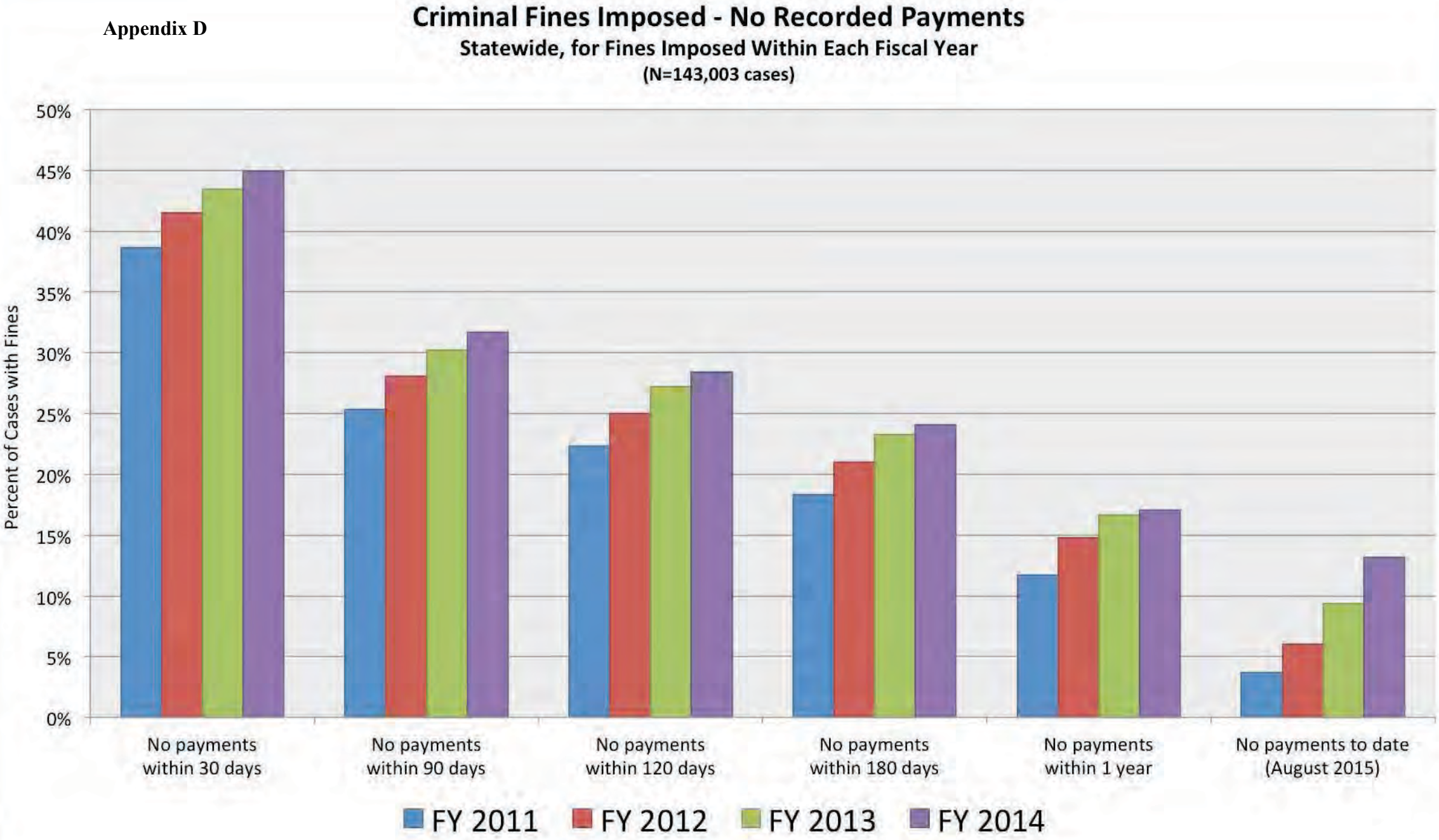
[1] The calendar dates are as follows:
FY 2011: July 1, 2010 through June 30, 2011
FY 2012: July 1, 2011 through June 30, 2012
FY 2013: July 1, 2012 through June 30, 2013
FY 2014: July 1, 2013 through June 30, 2014

[2] The total amount represents all fines, surcharges, or other fees imposed against any sentenced charge(s) within a case.

Appendix D


Criminal Fines Imposed - Fines Paid in Full
Statewide, for Fines Imposed Within Each Fiscal Year
(N=143,003 cases)
0%
10%
20%
30%
40%
50%
60%
70%
80%
90%
100%
2011
2012
2013
2014
Paid w/in 30 days
Paid w/in 90 days
Paid w/in 120 days
Paid w/in 180 days
Paid w/in 1 year
Paid to Date
Still Outstanding

Appendix D


Criminal Fines Imposed - No Recorded Payments
Statewide, for Fines Imposed Within Each Fiscal Year
(N=143,003 cases)
Percent of Cases with Fines
50%
45%
40%
35%
30%
25%
20%
15%
10%
5%
0%
No payments within 30 days
No payments within 90 days
No payments within 120 days
No payments within 180 days
No payments within 1 year
No payments to date (August 2015)
FY 2011
FY 2012
FY 2013
FY 2014

Appendix D

Statewide Criminal Fines Imposed – Fines Paid in Full by Region

The chart below shows the statewide figures for cases with fines imposed during each fiscal year, and the percentage of cases that were paid in full within each time frame. The last four columns show the payment amounts represented by jail credit and community service credit, along with the percentage these credits represent of the total amount imposed.

FY	Reg.	# Cases with Fines	Total Amount Imposed	% 30 days	% 90 days	% 120 days	% 180 days	% 1 year	% to Date	Jail Credit (JC)	JC - % of Total Fines	Community Service Credit (CS)	CS - % of Total Fines
2011	1	5,244	$2,037,490.50	51.5%	61.9%	65.8%	71.8%	82.2%	94.0%	$16,972.17	0.83%	$1,726.16	0.08%
	2	5,821	$2,467,471.87	37.8%	46.5%	50.5%	56.6%	70.3%	87.2%	$22,163.00	0.90%	$2,805.00	0.11%
	3	5,334	$1,977,505.44	39.0%	48.3%	51.8%	58.3%	73.6%	90.9%	$20,039.24	1.01%	$3,927.00	0.20%
	4	5,360	$2,075,604.80	39.0%	50.1%	54.1%	61.7%	74.8%	92.1%	$11,550.85	0.56%	$3,400.00	0.16%
	5	5,200	$2,125,414.50	35.0%	45.1%	49.3%	56.8%	70.9%	89.1%	$34,377.00	1.62%	$3,727.00	0.18%
	6	3,991	$1,751,748.88	39.9%	49.5%	53.8%	60.8%	75.4%	92.4%	$11,923.18	0.68%	$6,933.00	0.40%
	7	2,327	$928,028.77	39.9%	49.2%	52.5%	59.8%	73.2%	91.7%	$1,844.00	0.20%	$2,835.50	0.31%
	8	2,355	$1,082,399.00	35.0%	45.1%	48.6%	54.6%	66.4%	85.6%	$3,681.00	0.34%	$3,517.00	0.32%
2012	1	5,248	$1,905,509.25	47.0%	60.0%	64.6%	71.2%	81.0%	90.9%	$14,466.45	0.76%	$1,085.00	0.06%
	2	6,128	$2,503,636.82	34.0%	43.0%	46.6%	52.1%	64.5%	84.5%	$21,406.32	0.86%	$1,270.00	0.05%
	3	5,079	$1,729,426.73	37.7%	47.2%	50.6%	56.3%	69.9%	87.6%	$9,150.46	0.53%	$1,235.00	0.07%
	4	5,127	$1,814,157.50	38.1%	49.1%	53.0%	59.6%	72.9%	89.7%	$7,802.00	0.43%	$3,367.50	0.19%
	5	5,271	$1,986,859.13	35.0%	45.1%	49.6%	56.3%	69.5%	85.9%	$40,516.00	2.04%	$3,445.80	0.17%
	6	4,158	$1,762,372.69	40.6%	49.8%	53.5%	59.0%	70.4%	89.4%	$8,646.00	0.49%	$2,879.50	0.16%
	7	2,559	$1,086,895.38	39.3%	50.1%	53.4%	58.9%	70.5%	89.3%	$1,915.00	0.18%	$110.00	0.01%
	8	2,325	$1,027,726.55	34.9%	44.1%	47.2%	52.9%	63.2%	82.1%	$1,465.00	0.14%	$571.25	0.06%
2013	1	4,906	$1,692,385.18	47.2%	59.9%	63.7%	69.4%	78.1%	87.7%	$10,673.47	0.63%	$245.00	0.01%
	2	6,246	$2,186,757.13	31.4%	40.5%	43.8%	50.4%	62.7%	77.5%	$18,669.00	0.85%	$574.00	0.03%
	3	5,434	$1,791,941.13	36.3%	46.4%	50.0%	56.2%	69.9%	84.1%	$9,536.00	0.53%	$200.00	0.01%
	4	5,104	$1,823,585.90	36.4%	46.6%	50.0%	56.8%	70.8%	85.1%	$9,789.00	0.54%	$380.00	0.02%
	5	5,509	$1,926,463.60	34.5%	43.3%	47.0%	54.5%	68.2%	80.8%	$21,751.00	1.13%	$7,469.50	0.39%
	6	4,512	$1,811,420.80	40.4%	50.8%	54.2%	60.4%	73.7%	86.5%	$9,955.70	0.55%	$3,039.99	0.17%
	7	2,301	$930,182.94	39.7%	51.0%	55.0%	60.5%	72.1%	85.8%	$1,795.00	0.19%	$520.00	0.06%
	8	2,388	$907,891.07	35.9%	45.9%	49.3%	54.4%	64.9%	78.4%	$795.00	0.09%	$1,480.00	0.16%
2014	1	4,962	$1,583,316.14	41.2%	54.9%	59.8%	66.7%	76.9%	81.3%	$6,705.00	0.42%	$893.00	0.06%
	2	5,923	$2,209,199.02	28.7%	38.6%	42.4%	49.2%	62.5%	70.5%	$12,492.26	0.57%	$465.00	0.02%
	3	5,258	$1,744,806.90	34.0%	44.3%	47.9%	54.4%	67.5%	75.2%	$3,540.76	0.20%	$410.00	0.02%
	4	4,962	$1,706,773.75	33.7%	43.0%	46.5%	53.5%	68.2%	76.8%	$8,300.00	0.49%	$0.00	0.00%
	5	5,234	$1,910,414.50	33.4%	43.2%	47.6%	54.6%	68.3%	75.4%	$12,937.00	0.68%	$4,363.00	0.23%
	6	4,443	$1,919,124.50	40.5%	50.0%	54.3%	60.4%	74.3%	81.3%	$8,902.82	0.46%	$8,625.00	0.45%
	7	2,162	$946,563.00	40.2%	50.4%	54.1%	59.9%	72.9%	79.3%	$980.00	0.10%	$0.00	0.00%
	8	2,132	$817,365.00	34.6%	43.9%	47.0%	52.0%	63.2%	72.1%	$1,475.00	0.18%	$460.00	0.06%

Appendix D

Statewide Criminal Fines Imposed – No Recorded Payments by Region

The chart below shows the percentage of cases each fiscal year that had no recorded payments within each time frame, as well as the total amount outstanding as of the date of the report (August 2015).

FY	Reg.	# Cases with Fines	Total Amount Imposed	% After 30 days	% After 90 days	% After 120 days	% After 180 days	% After 1 year	% No Payments to Date	Total Amount Outstanding to Date*
2011	1	5,244	$2,037,490.50	31.8%	21.8%	19.3%	15.8%	9.7%	2.7%	$16,972.17
	2	5,821	$2,467,471.87	44.8%	29.3%	25.8%	21.3%	14.4%	5.3%	$22,163.00
	3	5,334	$1,977,505.44	36.5%	24.1%	21.7%	18.0%	11.5%	4.0%	$20,039.24
	4	5,360	$2,075,604.80	35.7%	23.0%	20.9%	16.9%	10.5%	3.1%	$11,550.85
	5	5,200	$2,125,414.50	38.0%	24.3%	20.8%	16.9%	10.4%	2.5%	$34,377.00
	6	3,991	$1,751,748.88	40.3%	26.5%	22.7%	18.5%	11.4%	2.7%	$11,923.18
	7	2,327	$928,028.77	41.7%	26.9%	23.3%	19.3%	12.8%	4.4%	$1,844.00
	8	2,355	$1,082,399.00	46.0%	30.2%	27.6%	22.3%	15.2%	5.7%	$3,681.00
2012	1	5,248	$1,905,509.25	38.8%	24.6%	21.0%	16.7%	11.7%	5.6%	$14,466.45
	2	6,128	$2,503,636.82	48.9%	34.0%	30.5%	26.2%	18.9%	8.6%	$21,406.32
	3	5,079	$1,729,426.73	38.8%	26.8%	24.1%	20.7%	14.2%	5.8%	$9,150.46
	4	5,127	$1,814,157.50	38.8%	27.0%	24.4%	20.1%	14.0%	5.7%	$7,802.00
	5	5,271	$1,986,859.13	41.1%	27.4%	24.0%	19.3%	13.0%	4.7%	$40,516.00
	6	4,158	$1,762,372.69	37.8%	26.5%	23.9%	20.7%	15.0%	4.9%	$8,646.00
	7	2,559	$1,086,895.38	44.0%	28.0%	25.0%	21.0%	14.3%	5.4%	$1,915.00
	8	2,325	$1,027,726.55	44.7%	30.1%	27.3%	23.5%	17.5%	7.3%	$1,465.00
2013	1	4,906	$1,692,385.18	41.1%	26.8%	23.5%	19.1%	13.4%	7.7%	$10,673.47
	2	6,246	$2,186,757.13	52.6%	38.4%	35.2%	30.6%	23.5%	14.7%	$18,669.00
	3	5,434	$1,791,941.13	41.5%	28.1%	25.4%	22.4%	14.9%	8.0%	$9,536.00
	4	5,104	$1,823,585.90	38.4%	27.6%	25.0%	21.6%	14.8%	7.8%	$9,789.00
	5	5,509	$1,926,463.60	44.4%	30.6%	27.4%	23.3%	16.7%	9.8%	$21,751.00
	6	4,512	$1,811,420.80	35.9%	25.0%	22.3%	19.1%	13.3%	6.4%	$9,955.70
	7	2,301	$930,182.94	47.0%	32.1%	28.5%	23.5%	16.6%	7.5%	$1,795.00
	8	2,388	$907,891.07	47.9%	33.1%	30.2%	25.4%	19.4%	11.6%	$795.00
2014	1	4,962	$1,583,316.14	46.9%	32.0%	27.8%	22.6%	15.7%	12.9%	$6,705.00
	2	5,923	$2,209,199.02	54.9%	39.6%	35.9%	30.8%	23.4%	18.9%	$12,492.26
	3	5,258	$1,744,806.90	44.6%	30.8%	27.8%	23.4%	16.2%	12.3%	$3,540.76
	4	4,962	$1,706,773.75	42.0%	31.3%	28.6%	24.6%	17.0%	12.4%	$8,300.00
	5	5,234	$1,910,414.50	44.1%	30.8%	27.6%	23.4%	16.2%	12.5%	$12,937.00
	6	4,443	$1,919,124.50	34.4%	24.1%	21.7%	18.1%	12.1%	8.8%	$8,902.82
	7	2,162	$946,563.00	42.4%	28.7%	26.1%	21.9%	15.1%	11.2%	$980.00
	8	2,132	$817,365.00	46.7%	32.6%	29.2%	25.2%	18.9%	14.6%	$1,475.00

Survey of Mandatory Minimum Fines in Titles 7, 12, 17, 17A, and 29-A[1]

[1] As of June 30, 15

TITLE 7 AGRICULTURE AND ANIMALS

Ch. 739 Cruelty to Animals

7 § 4016 Violation – for any violation of chapter 739.
Civil. First violation: $500 min./$2,500 max.
Subsequent violation(s): $1,000 min./$5,000 max.
Note: Fines may not be suspended.

Ch. 745 Sale of Dogs and Cats

7 § 4163 Dog or cat vendor's license – for failing to comply with section 4163.
Civil. $50 min./$200 max.
Note: Fines may not be suspended.

TITLE 12 CONSERVATION

Part 9 Marine Resources

Subpart 1. Administration

Ch. 605 General Department Activities

Subchapter 5. Miscellaneous Activities

12 § 6140-B(6) Unlawful fishing, possession or sale of Atlantic salmon – for violating section 6140-B.

Class E crime
$500 for each Atlantic salmon unlawfully possessed.
Note: May not be suspended.

Ch. 621 Finfish Licenses

Subchapter 1. Licenses

12 § 6505-A(8-A) Elver fishing license; Violation – for any violation of section 6505-A.

Class D crime
$2,000
Note: May not be suspended.
This is a strict liability crime.

12 § 6505-B(6) Elver gear fees; Violation – for any violation of section 6505-B.

Class D crime
$2,000
Note: May not be suspended.
This is a strict liability crime.

Article 5: Elver and Eel Limitations

12 § 6575(5) Open season; Elver harvesting; Violation – for violating section 6575.

Class D crime
$2,000
Note: May not be suspended.
This is a strict liability crime.

12 § 6575-A(2) Closed period; Elver harvesting; Violation – for violating section 6575-A.

Class D crime
$2,000
Note: May not be suspended.
This is a strict liability crime.

12 § 6575-D(2) Molesting elver fishing gear – for any violation of section 6575-D.
Class D crime
$2,000
Note: May not be suspended.
This is a strict liability crime.

12 § 6575-G(2) Dams with fishways; Elver fishing – for any violation of section 6575-G.
Class D crime
$2,000
Note: May not be suspended.
This is a strict liability crime.

12 § 6575-H(2) Sale and purchase of Elvers; Violation – for any violation of section 6575-H.
Class D crime
$2,000
Note: May not be suspended.
This is a strict liability crime.

12 § 6575-K(3) Elver individual fishing quota; Violation – for violating section 6575-K.
$2,000
Note: May not be suspended.

Ch. 623 Shellfish, Scallops, Worms and Miscellaneous Licenses

Subchapter 1. Shellfish

Article 2: Limits on Fishing

12 § 6621(4) Closed areas; Penalty – for any violation of section 6621.
Class D crime
First offense: $300 min.
Subsequent offense(s) within 10 years of first conviction: $500 min.
Note: Fines may not be suspended.

12 § 6626 Scallop conservation areas – for violating a rule adopted pursuant to section 6171 regarding a scallop conservation area.
First offense: $1,000
Subsequent offense(s): $1,000 min.
Notes: License shall be suspended.
Fine shall not be suspended.

Article 4: Municipal Conservation Programs

12 § 6671(10)(B) Municipal shellfish conservation programs; criminal penalty – for violating any other provision of a municipal ordinance adopted under section 6671.

Class D crime
$100 min./$1,500 max.
Note: No fines under section 6671 may be suspended.

Article 5: Soft-Shell Clam Management

12 § 6681(6-A)(A) Soft-shell clam management; Penalty – for possessing a bulk pile of shellfish of which 20% or more of the shellfish are smaller than the minimum size establish in subsection 3.

Class D crime
First offense: $300 min.
Subsequent offense(s) within 10 years of first violation: $500 min.
Note: Fines may not be suspended.

Subchapter 2. Scallops

Article 1: Licenses

12 § 6701(6) Scallop license; Violation – for any violation of section 6701.

First offense: $500 fine and all scallops seized.
Second offense: $750 fine and all scallops seized.
Subsequent offense(s): $750 and all scallops seized, in addition to the penalty imposed under section 6728-B.
Note: Fines may not be suspended.

12 § 6702(6) Scallop dragging license; Violation – for any violation of section 6702.

First offense: $500 fine and all scallops seized.
Second offense: $750 fine and all scallops seized.
Subsequent offense(s): $750 and all scallops seized, in addition to the penalty imposed under section 6728-B.
Note: Fines may not be suspended.

12 § 6703(5) Noncommercial scallop license; fee; Penalty – for violating section 6703.

First offense: $500 fine and all scallops seized.
Second offense: $750 fine and all scallops seized.
Subsequent offense(s): $750 and all scallops seized, in addition to the penalty imposed under section 6728-B.
Note: Fines may not be suspended.

Article 2: Limits on Fishing

12 § 6721-A(5) Shell size minimum; Violation – for violating section 6721-A.
First offense: $500 fine and all scallops seized.
Second offense: $750 fine and all scallops seized.
Subsequent offense(s): $750 and all scallops seized, in addition to the penalty imposed under section 6728-B.
Note: Fines may not be suspended.

12 § 6722(2) Scallop season; Violations – for violating section 6722.
First offense: $500 fine and all scallops seized.
Second offense: $750 fine and all scallops seized.
Subsequent offense(s): $750 and all scallops seized, in addition to the penalty imposed under section 6728-B.
Note: Fines may not be suspended.

12 § 6723(2) Drag limits in Blue Hill Bay; Violations – for violating section 6723.
First offense: $500 fine and all scallops seized.
Second offense: $750 fine and all scallops seized.
Subsequent offense(s): $750 and all scallops seized, in addition to the penalty imposed under section 6728-B.
Note: Fines may not be suspended.

12 § 6724(2) Otter trawl in Penobscot River; Violations – for violating section 6724.
First offense: $500 fine and all scallops seized.
Second offense: $750 fine and all scallops seized.
Subsequent offense(s): $750 fine and all scallops seized, in addition to the penalty imposed under section 6728-B.
Note: Fines may not be suspended.

12 § 6725(2) Possession of illegal scallops; Violations – for violating section 6725.
First offense: $500 fine and all scallops seized.
Second offense: $750 fine and all scallops seized.
Subsequent offense(s): $750 fine and all scallops seized, in addition to the penalty imposed under section 6728-B.
Note: Fines may not be suspended.

12 § 6728(3-A) Limits in Cobscook Bay; Violations – for violating section 6728(3-A).
First offense: $500 fine and all scallops seized.
Second offense: $750 fine and all scallops seized.
Subsequent offense(s): $750 fine and all scallops seized, and scallop dragging license may be suspended for one year, in addition to the penalty imposed under section 6728-B.
Note: Fines may not be suspended.

12 § 6728-B Habitual violations – for the third or subsequent adjudication or conviction of a violation of subchapter 2.
License suspended for one to three years

12 § 6728-C Dive only areas; Violation – for violating section 6728(C).
First offense: $500 fine and all scallops seized.
Second offense: $750 fine and all scallops seized.
Subsequent offense(s): $750 fine and all scallops seized, in addition to the penalty imposed under section 6728-B.
Note: Fines may not be suspended.

Article 2: Limits on Fishing

12 § 6749-A(4) Minimum size; Penalties – for any violation of section 6749-A.
First offense: Class D crime and $500 min.
Subsequent offense(s): Class D crime and $1,000 min.
Note: Fines may not be suspended.

12 § 6749-Y Penalty – for violating or failing to comply with subchapter 2.
Class D crime
$500 min.
Note: May not be suspended.

Ch. 625 Wholesale and Retail Licenses

12 § 6864(7) Elver dealer's license; Violation – for any violation of section 6864.
Class D crime
$2,000
Note: Fine may not be suspended.

Ch. 627 General Provisions

12 § 6953(4) Stopping for inspection; penalty; Throwing or dumping items – for any violation of section 6853.
Class D crime
$500 min.
Note: Fine may not be suspended.

12 § 6954(2) Dragging in cable area; Penalty – for any violation of section 6954.
Class D crime
$500 min.
Note: Fine may not be suspended.

12 § 6954-A(2) Dragging and scalloping prohibited in the Frenchboro area; Penalty – for any violation of section 6954-A.
Class D crime
$500 min.
Note: Fine may not be suspended.

12 § 6954-C(2) Drag limits north of the international bridge, Lubec; Violation – for violating section 6954-C.

First offense: $500 and all scallops seized.
Second offense: $750 and all scallops seized.
Subsequent offense(s): $750 and all scallops on board seized, in addition to the penalty imposed under section 6728-B.
Note: Fines may not be suspended.

12 § 6957(2) Fishing near floating equipment; Penalty – for any violation of subsection 1.

Class D crime
$1,000 min., notwithstanding Title 17-A, section 1301.
Note: Fine may not be suspended.

Part 13 Inland Fisheries and Wildlife Heading

Ch. 907 Enforcement Procedures

12 § 10605 Sentencing violator defined – for any habitual violator, as defined by section 10605, that is convicted of a crime in part 13.

3 days imprisonment min, may not be suspended.
$500 min, may not be suspended.

Ch. 911 Hunting and Operating Under the Influence

12 § 10701(3)(A) Hunting under the influence; operating watercraft, snowmobile or ATC under the influence; Penalties – for any violation of section 10701 without any previous convictions of subsection 1-A within the previous six years.

Class D crime
$400 min.
If convicted for failure to comply with the duty to submit to and complete an alcohol test under section 10702, subsection 1, within previous six years: $500 min.
Note: For any violation of section 10701, when the person also violated subsection 3, paragraph A, subparagraphs 1, 2, or 3: 48 hr. min. incarceration, may not be suspended

12 § 10701(3)(B) Hunting under the influence; operating watercraft, snowmobile or ATC under the influence; Penalties – for any violation of section 10701 with one previous convictions of subsection 1-A within the previous six years.

Class D crime
7 days min incarceration, may not be suspended, plus $600 min
If convicted for failure to comply with the duty to submit to and complete an alcohol test under section 10702, subsection 1, within previous six years: $800 min.

12 § 10701(3)(C) Hunting under the influence; operating watercraft, snowmobile or ATC under the influence; Penalties – for any violation of section 10701 with two or more previous convictions of subsection 1-A within the previous six years.

30 days min incarceration, may not be suspended, plus $1,000 min.
If convicted for failure to comply with the duty to submit to and complete an alcohol test under section 10702, subsection 1, within previous six years: $1,300 min.

Ch. 915 **Hunting: Seasons, Requirements and Restrictions**

Subchapter 3. Hunting Permit Requirements and Fees

12 § 11152(1-A) Antlerless deer; regulation and authority to issue permits; Antlerless deer in wildlife management districts with no permits issued – for hunting or possessing antlerless deer in a wildlife management district without a permit.

Class D crime
$1,000 min. and 3 days min. imprisonment.
Note: May not be suspended.

12 § 11153(3) Special season deer permits; fees; Penalty – for violating section 11153.

Class E crime
$50 min. and an amount equal to twice the applicable license fee.
Note: Each day a person violates this section is a separate offense.

12 § 11154(1) Moose permit; Permit required – for hunting or possessing a moose without a valid permit.

Class D crime
$1,000 min.
First offense: 3 days min. imprisonment.
Subsequent offense(s): 10 days min. imprisonment.
Note: May not be suspended.

12 § 11155(1) Wild turkey hunting permits; Permit required – for hunting or possessing wild turkey without a valid permit.

Class D crime
$500 min., plus $500 for each wild turkey unlawfully possessed.
Note: May not be suspended.

Subchapter 4. General Unlawful Acts Pertaining to Hunting

12 § 11201(2) Hunting during closed season; Close season; Bear – for hunting bear in violation of section 11201.

Class D crime
$1,000 min.
First offense: 3 days min. imprisonment.
Subsequent offense(s): 10 days min. imprisonment.
Note: May not be suspended.

12 § 11201(3) Hunting during closed season; Deer – for hunting deer in violation of section 11201.

Class D crime
$1,000 min.
First offense: 3 days min. imprisonment.
Subsequent offense(s): 10 days min. imprisonment.
Note: May not be suspended.

12 § 11201(4) Hunting during closed season; Moose – for hunting moose in violation of section 11201.

Class D crime
$1,000 min.
First offense: 3 days min. imprisonment.
Subsequent offense(s): 10 days min. imprisonment.
Note: May not be suspended.

12 § 11201(5) Hunting during closed season; Wild turkey – for hunting wild turkey in violation of section 11201.

Class D crime
$500 min., plus $500 min. for each wild turkey unlawfully possessed
Note: May not be suspended.

12 § 11206(2)(A) Night hunting; Penalty – for violating subsection 1.

Class D crime
$1,000 min.
First offense: 3 days min. imprisonment.
Subsequent offense(s): 10 days min. imprisonment.
Note: May not be suspended.

12 § 11206(2)(B) Night hunting; Penalty – for violating subsection 1 while possessing night vision equipment.

Class D crime
$2,000 min.
3 days min. imprisonment.
Note: May not be suspended.

12 § 11206(2)(C) Night hunting; Penalty – for violating subsection 1 while in possession of night vision equipment and having been convicted of a Class D crime within the past 10 year under Title 12, Part 13.

Class D crime
$2,000 min.
6 days min. imprisonment
Note: May not be suspended.

12 § 11216(2)(B) Hunting with aid of aircraft; Penalties – for violating subsection 1 and taking a bear, deer or moose.

Class E crime
$500 min.
Note: May not be suspended.

12 § 11217(4) Buying and selling wild animals and wild birds; Penalty – for violating section 11217.

Class D crime
$1,000 min.
First offense: 10 days min. imprisonment.
Succeeding offense(s): 20 days min. imprisonment.
Note: May not be suspended.

Subchapter 5. Bear Hunting

Article 3: Possession of Bear

12 § 11351 Bear bag limit – for violating subsection 1 04 2.

Class D crime
$1,000 min.
180 days max. imprisonment.
Note: May not be suspended.

Subchapter 6. Deer Hunting

Article 3: Possession of Deer

12 § 11501 Bag limit – for violating section 11501.

Class D crime
$1,000 min.
First offense: 3 days min. imprisonment.
Succeeding offense(s): 10 days min. imprisonment.
Note: May not be suspended.

Subchapter 7. Moose Hunting

Article 3: Possession of Moose

12 § 11651-A Hunting moose after having killed one – for hunting moose after having killed or registered one during the open season of that calendar year.

Class D crime
$1,000 min.
First offense: 3 days min. imprisonment.
Succeeding offense(s): 10 days min. imprisonment.
Note: May not be suspended.

12 § 11652 Bag limits – for violating this section.

Class D crime
$1,000 min.
First offense: 3 days min. imprisonment.
Succeeding offense(s): 10 days min. imprisonment.
Note: May not be suspended.

Subchapter 8. Wild Turkey Hunting

Article 1: Commissioner's Authority to Regulate the Hunting of Wild Turkey; Hunting Laws

12 § 11701 Authority of commissioner; wild turkey hunting – for violating section 11701.

Class E crime
$500 min., plus $500 for each turkey unlawfully possessed.
Note: May not be suspended.

Article 2: Possession of Wild Turkeys

12 § 11751-A(4)(B) Unlawful possession of wild turkeys; Penalties – for violating subsection 2 or 3.

Class E crime.
$500 min., plus $500 for each turkey unlawfully possessed.
Note: May not be suspended.

Ch. 917 Trapping

Subchapter 2. Trapping Season, Requirements and Restrictions

12 § 12260(4) Trapping bear; Trapping bear after having killed one – for trapping a bear after having killed or registered one trapped pursuant to this section.

Class D crime
$1,000 min.
180 days max. imprisonment.
Note: May not be suspended.

12 § 12260(5) Trapping bear; Exceeding bag limits on bears – for possessing more than 2 bears in any calendar year.

Class D crime
$1,000 min.
180 days max. imprisonment.
Note: May not be suspended.

Ch. 923 Fish: Fishing Seasons and Restrictions

Subchapter 1. Seasons, Rulemaking and Special Regulations

12 § 12457(3) Restricted areas; Penalty – for violating section 12457.

Class E crime
$20 for each fish unlawfully possessed.
Note: May not be suspended.

Subchapter 3. Live Bait; Dealing, Trapping and Possession

12 § 12553(1-A) Selling, using or possessing baitfish – for violating subsection 1-A.
Class E crime
$20 for each fish illegally possessed.
Note: May not be suspended.

12 § 12554 Disturbing baitfish traps or baitfish holding boxes – for disturbing or taking any baitfish trap or baitfish holding box or any fish from any baitfish trap or baitfish folding box other than that person's own without the consent of the owner of the baitfish trap or baitfish holding box.
Class E crime
$20 for each fish unlawfully suspended
Note: May not be suspended.

12 § 12556 Importing live bait – for importing into this State any live fish, including smelts, that are commonly used for bait fishing in inland waters.
Class E crime
$20 for each fish unlawfully possessed.
Note: May not be suspended.

Subchapter 4. General Fishing Provisions

12 § 12602 Violation of number, amount, weight or size limits – for fishing in violation of the number, amount, weight or size limits establish by rules adopted by the commissioner; or for possessing fish in violation of the number, amount, weight or size limits establish by rules adopted by the commissioner.
Class E crime
$20 for each fish unlawfully suspended
Note: May not be suspended.

12 § 12604 Closed season violation – for fishing for any fish during the closed season or possessing any fish taken during the closed season on that fish.
Class E crime
$20 for each fish unlawfully suspended
Note: May not be suspended.

12 § 12606 Ice fishing; waters closed to fishing – for fishing in inland waters closed to ice fishing, except that fishing for alewives and smelts in the manner provided under the laws regulating marine resources is permitted.
Class E crime
$20 for each fish unlawfully suspended
Note: May not be suspended.

12 § 12607 Unlawfully introducing department-raised fish or fish spawn – for introducing fish or fish spawn raised by the department into a private pond, unless the department permits the introduction for fishing events

held in conjunction with educational or special programs sanctioned by the department.

Class E crime
$20 for each fish unlawfully suspended
Note: May not be suspended.

12 § 12609-A Purchase or sale of certain fish – for violating section 12609-A.

Class E crime
$20 for each fish unlawfully suspended
Note: May not be suspended.

Subchapter 5. Unlawful Fishing Methods

12 § 12651 Snagging – for fishing by snagging as defined by section 10001, subsection 58.

Class E crime
$20 for each fish unlawfully suspended
Note: May not be suspended.

12 § 12653 Taking fish by explosive, poisonous or stupefying substance – for using dynamite or any other explosive, poisonous or stupefying substance at any time for the purpose of taking or destroying any kind of fish.

Class E crime
$20 for each fish unlawfully suspended
Note: May not be suspended.

12 § 12654 Unlawful angling or fishing – for angling or fishing other than by the use of the single baited hook and line, artificial flies, artificial lures and spinners, except that a person may take smelts in accordance with rules adopted with regard to the taking of smelts.

Class E crime
$20 for each fish unlawfully suspended
Note: May not be suspended.

12 § 12656 Possession and use of unlawful implements and devices – for violating section 12656.

Class E crime
$20 for each fish unlawfully suspended
Note: May not be suspended.

Ch. 927 Guides and Youth Camp Trip Leaders

12 § 12853 License, Fees and requirements; youth camp trip leader exception – for acting as a guide without a valid license.

Class D crime
3 days imprisonment
$1,000
Notes: May not be suspended.
Each day that person acts as a guide without a valid license constitutes a separate violation.

Ch. 935 Watercraft and Airmobiles

12 § 13058(2) Lake and river protection sticker required; Violation – for violating subsection 1.

Civil. $100 min./$250 max.
For violating this section after having been adjudicated as having committed 3 or more civil violations under this Part within the previous 5-year period: Class E crime
Note: Fines may not be suspended.

12 § 13068-A(1) Operating watercraft; prohibitions; Launching contaminated watercraft – for placing a watercraft that is contaminated with an invasive aquatic plant upon the inland waters of the State.

Civil. $500 min./$5,000 max.
For violating this section after having been adjudicated as having committed 3 or more civil violations under this Part within the previous 5-year period: Class E crime
Note: Fines may not be suspended.

12 § 13068-A(15) Operating watercraft; prohibitions; Violation of surface use restriction order – for operating, launching or removing a watercraft at a restricted-access site or refusing inspection of a watercraft in violation of an order issued under Title 38, 1864.

Civil. $500 min./$5,000 max.
For violating this section after having been adjudicated as having committed 3 or more civil violations under this Part within the previous 5-year period: Class E crime
Note: Fines may not be suspended.

TITLE 17 CRIMES

Ch. 70 Salvia Divinorum

17 § 2012 Unlawful transfer of Salvia divinorum to a minor – for any violation of section 2012.

Civil. $50 min./$1,500 max., plus court costs, per offense.
Note: The fine may not be suspended.

17 § 2013(2)(C) Unlawful possession or use of Salvia divinorum by a minor; Penalty – for violating subsection 1, paragraph C.

Civil. $500.
Notes: The fine may not be suspended.
In addition to this fine, the judge may assign the minor to perform specified work for the benefit of the State, a municipality or other public entity or a charitable institution.

17 § 2014(2)(C) Use of false identification by minor prohibited; Penalty – for offering false identification in an attempt to purchase Salvia divinorum after having previously done so two or more times.

Civil. $500.
Notes: The fine may not be suspended.
In addition to this fine, the judge may assign the minor to perform specified work for the benefit of the State, a municipality or other public entity or a charitable institution.

Title 17-A MAINE CRIMINAL CODE

Part 2 Substantive Offenses

Ch. 9 Offenses Against the Person

17-A § 207 Assault – for intentionally, knowingly or recklessly causing bodily injury or offensive physical contact to another person; or

$300 min.

Note: As a sentencing alternative.
May not be suspended.

Ch. 45 Drugs

17-A § 1103 Unlawful trafficking in scheduled drugs – for violating section 1103.

$400

Notes: May not be suspended.
Fine pursuant to chapter 53, section1301, subsection 6.

17-A § 1104 Trafficking in or furnishing counterfeit drugs – for violating section 1104.

$400

Notes: May not be suspended.
Fine pursuant to chapter 53, section1301, subsection 6.

17-A § 1105-A Aggravated trafficking of scheduled drugs – for violating section 1105-A.

$400

Notes: May not be suspended.
Fine pursuant to chapter 53, section1301, subsection 6.

17-A § 1105-B Aggravated trafficking or furnishing of counterfeit drugs – for violating section 1105-B.

$400

Notes: May not be suspended.
Fine pursuant to chapter 53, section1301, subsection 6.

17-A § 1105-C Aggravated furnishing of scheduled drugs – for violating section 1105-C.

$400

Notes: May not be suspended.
Fine pursuant to chapter 53, section1301, subsection 6.

17-A § 1105-D Aggravated cultivating of marijuana – for violating section 1105-D.

$400

Notes: May not be suspended.
Fine pursuant to chapter 53, section1301, subsection 6.

17-A § 1106 Unlawfully furnishing scheduled drugs – for violating section 1106.

$400

Notes: May not be suspended.
Fine pursuant to chapter 53, section1301, subsection 6.

17-A § 1107-A Unlawful possession of scheduled drugs – for violating section 1107-A.

$400

Notes: May not be suspended.
Fine pursuant to chapter 53, section1301, subsection 6.

17-A § 1108 Acquiring drugs by deception – for violating section 1108.

$400

Notes: May not be suspended.
Fine pursuant to chapter 53, section1301, subsection 6.

17-A § 1109 Stealing drugs – for violating section 1109.

$400

Notes: May not be suspended.
Fine pursuant to chapter 53, section1301, subsection 6.

17-A § 1110 Trafficking in or furnishing hypodermic apparatuses – for violating section 1110.

$400

Notes: May not be suspended.
Fine pursuant to chapter 53, section1301, subsection 6.

17-A § 1111 Illegal possession of hypodermic apparatuses – for violating section 1111.

$400

Notes: May not be suspended.
Fine pursuant to chapter 53, section1301, subsection 6.

17-A § 1111-A(4-A) Use of drug paraphernalia; for violating section 111-A, subsection 4-A.

$400

Notes: May not be suspended.
Fine pursuant to chapter 53, section1301, subsection 6.

17-A § 1111-A(4-B)(A) Use of Drug Paraphernalia – except as provided in Title 22, chapter 558-C, for using drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce in the human body a scheduled drug.

$300

Note: May not be suspended.

17-A § 1111-A(4-B)(B) Use of Drug Paraphernalia – except as provided in Title 22, chapter 558-C, for possessing with intent to use drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store,

contain, conceal, inject, ingest, inhale or otherwise introduce in the human body a scheduled drug.

$300
Note: May not be suspended.

17-A § 1116 Trafficking or furnishing imitation scheduled drugs – for violating section 1116.

$400
Notes: May not be suspended.
Fine pursuant to chapter 53, section1301, subsection 6.

17-A § 1117 Cultivating marijuana – for violating section 1117.

$400
Notes: May not be suspended.
Fine pursuant to chapter 53, section1301, subsection 6.

17-A § 1118 Illegal importation of scheduled drugs – for violating section 1118.

$400
Notes: May not be suspended.
Fine pursuant to chapter 53, section1301, subsection 6.

Part 3

Ch. 53 Fines

17-A § 1301(6) Amount authorized – in addition to any other authorized sentencing alternative, for any conviction under section 1103; 1104; 1105-A; 1105-B; 1105-C; 1105-D; 1106; 1107-A; 1108; 1109; 1110; 1111; 1111-A, subsection 4-A; 1116; 1117; or 1118.

$400 min.
Note: May not be suspended.

Title 22 HEALTH AND WELFARE

Part 3 Public Health

Ch. 262-A Retail Tobacco Sales

Subchapter 2. Prohibited Sales, Possession and Use

22 § 1554-A(2) Sale of unpackaged cigarettes – for any person who violates section 1554-A.
$10 min./$100 max.
Note: May not be suspended.

22 § 1554-B(8)(A) Sales of tobacco products – for anyone who violates subsection (1) - (4).
$50 min./$1,500 max. plus court costs, may not be suspended.

22 § 1554-B(8)(A-1) Sales of tobacco products – for the employer of anyone who violates subsection (1) – (4).
$50 min./$1,500 max. plus court costs, may not be suspended.

22 § 1554-(8)(B) Sales of tobacco – for any violation of subsection 5-A or 5-C.
First offense: $100 min./$300 max. and/or the judge may assign the violator to perform specified work for the benefit of the State, municipality or other public entity or charitable institution.
Second offense: $200 min./$500 max. and/or the judge may assign the violator to perform specified work for the benefit of the State, municipality or other public entity or charitable institution.
Subsequent offense(s): $500, may not be suspended, and the judge may assign the violator to perform specified work for the benefit of the State, municipality or other public entity or charitable institution.

Part 5 Food and Drugs

Ch. 558 Marijuana, Scheduled Drugs, Imitation Scheduled Drugs and Hypodermic Apparatuses

22 § 2383(A) Possession; Marijuana – for possessing a usable amount of marijuana.
≥ 1 ¼ ounces: $350 min./$600 max.
1 ¼ - 2 ½ ounces: $700 min./$1,000 max.
Note: Fines may not be suspended.

22 § 2389 Illegal transportation of drugs by minor – for any violation of section 2389.
First offense: $500 max.
Second offense: $200 min.
Subsequent offense(s): $400 min.
Note: Second and subsequent offense fines may not be suspended.

TITLE 28-A LIQUORS

Ch. 81 Prohibited Acts by Minors

28-A § 2051(1)(A) Prohibited acts by minors; Prohibited acts – no minor may purchase liquor or imitation liquor.

First offense: $200 min./$400 max.
Second offense: $300 min./$600 max., may not be suspended.
Subsequent offense(s): $600, may not be suspended.
Note: As and alternative to or in addition to the civil fines required by this paragraph, the judge may assign the minor to perform specified work for the benefit of the State, the municipality or other public entity or charitable institution.

28-A § 2051(1)(B) Prohibited acts by minors; Prohibited acts – no minor may consume liquor or imitation liquor, except in a home in the presence of the minor's parents, guardian or custodian.

First offense: $200 min./$400 max.
Second offense: $300 min./$600 max., may not be suspended.
Subsequent offense(s): $600, may not be suspended.
Note: As and alternative to or in addition to the civil fines required by this paragraph, the judge may assign the minor to perform specified work for the benefit of the State, the municipality or other public entity or charitable institution.

28-A § 2051(1)(C) Prohibited acts by minors; Prohibited acts – no minor may have on their person liquor or imitation liquor in any premises licensed for the sale of liquor to be consumed on the premises.

First offense: $200 min./$400 max.
Second offense: $300 min./$600 max., may not be suspended.
Subsequent offense(s): $600, may not be suspended.
Note: As and alternative to or in addition to the civil fines required by this paragraph, the judge may assign the minor to perform specified work for the benefit of the State, the municipality or other public entity or charitable institution.

28-A § 2051(1)(D)(1) Prohibited acts by minors; Prohibited acts – no minor may present or offer to a licensee any evidence of age that is false for the purpose of procuring liquor or imitation liquor.

First offense: $200 min./$400 max.
Second offense: $300 min./$600 max., may not be suspended.
Subsequent offense(s): $600, may not be suspended.
Note: As and alternative to or in addition to the civil fines required by this paragraph, the judge may assign the minor to perform specified work for the benefit of the State, the municipality or other public entity or charitable institution.

28-A § 2051(1)(D)(2) Prohibited acts by minors; Prohibited acts – no minor may present or offer to a licensee any evidence of age that is false for the purpose of gaining access to a licenses premise when minors are not allowed.

First offense: $200 min./$400 max.
Second offense: $300 min./$600 max., may not be suspended.
Subsequent offense(s): $600, may not be suspended.
Note: As and alternative to or in addition to the civil fines required by this paragraph, the judge may assign the minor to perform specified work for the benefit of the State, the municipality or other public entity or charitable institution.

28-A § 2051(1)(D-1) Prohibited acts by minors; Prohibited acts – no minor may possess false identification.

First offense: $200 min./$400 max.
Second offense: $300 min./$600 max., may not be suspended.
Subsequent offense(s): $600, may not be suspended.
Note: As and alternative to or in addition to the civil fines required by this paragraph, the judge may assign the minor to perform specified work for the benefit of the State, the municipality or other public entity or charitable institution.

28-A § 2051(1)(D-2) Prohibited acts by minors; Prohibited acts – no minor may sell, furnish or give a false identification card to a minor.

First offense: $200 min./$400 max.
Second offense: $300 min./$600 max., may not be suspended.
Subsequent offense(s): $600, may not be suspended.
Note: As and alternative to or in addition to the civil fines required by this paragraph, the judge may assign the minor to perform specified work for the benefit of the State, the municipality or other public entity or charitable institution.

28-A § 2051(1)(E-1) Prohibited acts by minors; Prohibited acts – no minor may possess liquor or imitation liquor.

First offense: $200 min./$400 max.
Second offense: $300 min./$600 max., may not be suspended.
Subsequent offense(s): $600, may not be suspended.
Note: As and alternative to or in addition to the civil fines required by this paragraph, the judge may assign the minor to perform specified work for the benefit of the State, the municipality or other public entity or charitable institution.

28-A § 2501(1)(F-1) Prohibited acts by minors; Prohibited acts – no minor may possess equipment specifically designed for the purpose of brewing malt liquor or fermenting or making wine.

First offense: $200 min./$400 max.
Second offense: $300 min./$600 max., may not be suspended.
Subsequent offense(s): $600, may not be suspended.
Note: As and alternative to or in addition to the civil fines required by this paragraph, the judge may assign the minor to perform specified work for the benefit of the State, the municipality or other public entity or charitable institution.

28-A § 2502 Illegal transportation by minors – Except as provided in subsection 1-B, a minor may not knowingly transport or knowingly permit to be transported liquor in a motor vehicle under the minor's control.

First offense: $500 max.
Second offense: $200 min./$500 max., may not be suspended.
Subsequent offense(s): $400 min./$500 max., may not be suspended.
Note: Minor cannot be charged with illegal transportation and possession.

28-A § 2078 Illegal sale of liquor – for selling liquor without a valid license.

Class E crime
First offense: $300 min./$500 max. plus costs, may not be suspended, and 30 days max. imprisonment.
Second offense: $500 min./$1,000 max. plus costs, may not be suspended, and 60 days max. imprisonment.
Subsequent offense(s): $1,000 min. and 60 days imprisonment, may not be suspended, and 4 months max. additional imprisonment.

28-A § 2081(1)(A) Furnishing or allowing consumption of liquor by certain persons prohibited; Offense – a person may not knowingly procure or give liquor to a minor.

Class D crime
If the minor is less than 18: $500 min., may not be suspended.
Second offense within 6 years: $1,000 min., may not be suspended.
Subsequent offense(s) within 6 years of First offense: $1,500 min., may not be suspended.
If the consumption of liquor causes serious bodily injury or death: Class C crime

28-A § 2081(1)(B) Furnishing or allowing consumption of liquor by certain persons prohibited; Offense – for allowing a minor under that person's control to possess or consume liquor.

Class D crime
If the minor is less than 18: $1,000 min., may not be suspended.
Subsequent offense within 6 years: $2,000 min., may not be suspended.
If the consumption of liquor causes serious bodily injury or death: Class C crime

TITLE 29-A MOTOR VEHICLES

Ch. 5 Vehicle Registration

Subchapter 1. Registration

Article 4: Registration Provisions

29-A § 525(9-A)(B) Violation of fuel tax licensing and reporting; Violation – for displaying or causing to be displayed a false decal or permit or a decal or permit issued to another person.

Class D crime
Subsequent infraction on the next day with same vehicle: $250 min., may not be suspended.
Note: This is a strict liability offense.

Ch. 7 Title to Vehicles

29-A § 662 (5) Transfer of interest in vehicle; Transfer to dealer – for a dealer licenses under chapter 9 who acquires a vehicle but fails to possess a transfer form in accordance with section 752, or for failing to posses a properly completed transfer form.

$200 min.
Note: May not be suspended.

Ch. 9 Dealers

29-A § 903(4) Grounds for denying, suspending, revoking or modifying dealer license; Continuing business – for continuing to engage in the business of buying or selling of vehicles after suspension or revocation of the dealer license.

$200 min., may not be suspended.
Class E crime

Subchapter 4. Display

29-A §1002(3) Violation of vehicle and equipment dealer plate; Penalty – for violating subsection 1 or subsection 1-A.

$200 min., may not be suspended.

Subchapter 6. Licensing of Recyclers

29-A § 1108 Denial, suspension or revocation of a recycler license – for continuing to engage in business as a salvage vehicle dealer, recycler or as a scrap processor, after suspension or revocation of the license issued by the Secretary of State.

$200 min., may not be suspended
Class E crime

Ch. 19 Operation

Subchapter 1. Rules of the Road

29-A § 2081(2) Use of safety seat belts; Children under 40 pounds – for failing to properly secure a child under 40 pounds in accordance with the manufacturer's instructions in a child safety seat.

First offense: $50
Second offense: $125
Subsequent offense(s): $250
Note: Fines imposed under this section may not be suspended.

29-A § 2081(3) Use of safety seat belts; Passengers less than 18 years of age – for failing to be equipped with seat belts while riding in a vehicle and under the age of 18.

First offense: $50
Second offense: $125
Subsequent offense(s): $250
Note: Fines imposed under this section may not be suspended.

29-A § 2081(3-A) Use of safety seat belts; Other passengers 18 years of age and older; operators – for failing to wear a seat belt.

First offense: $50
Second offense: $125
Subsequent offense(s): $250
Note: Fines imposed under this section may not be suspended.

Ch. 21 Weight, Dimension and Protection of Ways

Subchapter 2. Dimension

29-A § 2395 Ways requiring special protection – for violating section 2395.

$250
Note: May not be suspended.

Ch. 23 **Major Offenses**

Subchapter 2. Judicial Actions

Article 1: Offenses

29-A § 2411(5)(A) Criminal OUI; Penalties – for the first OUI within the previous 10-year period.

Class D crime
$500 min.
If failed to submit to a test: $600 min.
Suspension of driver's license for 150 days.
If tested at 0.15 or more; was exceeding the speed limit by 30 miles per hour or more; eluded or attempted to elude a police officer; or, was operating with a passenger under 21 years of age: 48 hours min. incarceration.
For failing to submit to a test: 96 hours min. incarceration.
Note: May not be suspended.

29-A § 2411(5)(B) Criminal OUI; Penalties – for having one previous OUI within the previous 10-year period.

Class D crime
$700 min.
If failed to submit to a test: $900 min.
Suspension of driver's license for 3 years.
Suspension of right to register a motor vehicle.
7 days min. incarceration.
For failing to submit to a test: 12 days min. incarceration.
Note: May not be suspended.

29-A § 2411(5)(C) Criminal OUI; Penalties – for having two previous OUI within the previous 10-year period.

Class C crime
$1,100 min.
If failed to submit to a test: $1,400 min.
Suspension of driver's license for 6 years.
Suspension of right to register a motor vehicle.
30 days min. incarceration.
For failing to submit to a test: 40 days min. incarceration.
Note: May not be suspended.

29-A § 2411(5)(D) Criminal OUI; Penalties – for having three or more previous OUI within the previous 10-year period.

Class C crime
$2,100 min.
If failed to submit to a test: $2,400 min.
Suspension of driver's license for 8 years.
Suspension of right to register a motor vehicle.
6 months min. incarceration.
For failing to submit to a test: 6 months 20 days min. incarceration.
Note: May not be suspended.

29-A § 2411(5)(D-1) Criminal OUI; Penalties – for violating subsection 1-A, paragraph D, subparagraph 1.

Class C crime
$2,100 min.
Suspension of driver's license for 6 years.
6 months min. incarceration.
Notes: This is a strict liability crime.
May not be suspended.

29-A § 2411(5)(D-2) Criminal OUI; Penalties – for violating subsection 1-A, paragraph D, subparagraph (1-A) or (2).

Class C crime
$2,100 min.
Suspension of driver's license for 10 years.
6 months min. incarceration.
Notes: This is a strict liability crime.
May not be suspended.

29-A § 2411(7) Criminal OUI; Surcharge – for a conviction under section 2411.

$30
If the person operated or attempted to operate a motor vehicle under the influence of drugs or a combination of liquor and drugs: $125

29-A § 2411(3) Operating while license suspended or revoked; Minimum mandatory sentences for certain suspension – if the suspension was for OUI or an OUI offense.

$600
7 consecutive days imprisonment.
1 year min./3 year max. license suspension.
Note: May not be suspended.

29-A § 2411(3)(A) Operating while license suspended or revoked; Minimum mandatory sentences for certain suspension – if the person has a prior conviction for violation section 2411, then the following minimum penalties apply in the event the suspension was for OUI:

On prior conviction: $1,000 min.
30 consecutive days imprisonment.
1 year min./3 year max. license suspension.
Note: May not be suspended.

Two prior convictions: $2,000 min.
60 consecutive days imprisonment.
1 year min./3 year max. license suspension.
Note: May not be suspended.

Three or more prior convictions: $3,000 min.
Class C crime
6 months imprisonment.
1 year min./3 year max. license suspension.
Note: May not be suspended.

29-A § 2411(3)(B) Operating while license suspended or revoked; Minimum mandatory sentences for certain suspension – for all other suspensions under subsection 3.

First offense: $250 min.
Subsequent offense(s): $500 min.
Note: May not be suspended.

29-A § 2413(3) Driving to endanger; Penalties – for violating section 2413.

$575 min.
For a conviction under subsection 1: suspension of driver's license for 30 days min./180 days max.
For a conviction under subsection 1-A: suspension of driver's license for 180 days min./2 years max.
Note: May not be suspended.
Minimum suspensions must be imposed.

Subchapter 3. Administrative Actions

Article 4: Special Licenses

29-A § 2508(2) Ignition interlock device; Crime; penalty – if a person's license is reinstated pursuant to section 2412-A, subsection 7 or section 2508, and they operate a motor vehicle without an ignition interlock device; or, tamper with, disconnect or disable an ignition interlock device or circumvent the operation of an ignition interlock device.

Class E crime
$500 min.
7 days min. incarceration.
Notes: This is a strict liability crime.
These penalties may not be suspended.

Subchapter 5. Habitual Offender

29-A § 2557-A(2)(A) Operating after habitual offender revocation; Penalties – for violating subsection 1 and having not been convicted for operating after revocation under this section within the previous 10 years, and not having received an OUI conviction within the previous 10 years.

Class D crime
$500 min.
30 days min. imprisonment.
Note: May not be suspended.
This is a strict liability crime.

29-A § 2557-A(2)(B) Operating after habitual offender revocation; Penalties – for violating subsection 1 and having one conviction for operating after revocation under this section within the previous 10 years, or having one OUI conviction within the previous 10 years.

Class C crime
$1,000 min.
6 months min. imprisonment.
Note: May not be suspended.
This is a strict liability crime.

29-A § 2557-A(2)(C) Operating after habitual offender revocation; Penalties – for violating subsection 1 and having two convictions for operating after revocation under this section within the previous 10 years, or having two OUI convictions within the previous 10 years.

Class C crime
$1,000 min.
9 months min. imprisonment.
Note: May not be suspended.
This is a strict liability crime.

29-A § 2557-A(2)(D) Operating after habitual offender revocation; Penalties – for violating subsection 1 and having three convictions for operating after revocation under this section within the previous 10 years, or having three OUI convictions within the previous 10 years.

Class C crime
$1,000 min.
2 years min. imprisonment.
Note: May not be suspended.
This is a strict liability crime.

29-A § 2558(2)(A) Aggravated operating after habitual offender revocation; Penalties – for violating subsection 1.

Class D crime
$500 min.
6 months min. imprisonment.
Note: May not be suspended.
This is a strict liability crime.

29-A § 2558(2)(B) Aggravated operating after habitual offender revocation; Penalties – for violation subsection 1 and at the time having one OUI conviction, one conviction for violating this section or one conviction for violating section 2557 or section 2557-A within the previous 10 years.

Class C crime
$1,000 min.
1 year min. imprisonment.
Note: May not be suspended.
This is a strict liability crime.

29-A § 2558(2)(C) Aggravated operating after habitual offender revocation; Penalties – for violation subsection 1 and at the time having two OUI convictions, two convictions for violating this section or two convictions for violating section 2557 or section 2557-A within the previous 10 years.

Class C crime
$2,000 min.
2 years min. imprisonment.
Note: May not be suspended.
This is a strict liability crime.

29-A § 2558(2)(D) Aggravated operating after habitual offender revocation; Penalties – for violation subsection 1 and at the time having three or more OUI convictions, three or more convictions for violating this section or three or more convictions for violating section 2557 or section 2557-A within the previous 10 years.

Class C crime
$3,000 min.
5 years min. imprisonment.
Note: May not be suspended.
This is a strict liability crime.

Appendix F

Title Number	Title Name	Number of Statutes With Mandatory Fines	Criminal Violations	Civil Violations	Both Criminal and Civil Violations
7	Agriculture and Animals	95			X
8	Amusements and Sports	16			X
9-A	Maine Consumer Credit Code	4			X
9-B	Financial Institutions	8			X
10	Commerce and Trade	35			X
12	Conservation	471			X
14	Court Procedure-Civil	1		X	
16	Court Procedure-Evidence	2			X
17	Crimes	114		*	X
17-A	Maine Criminal Code	20		*	X
21-A	Elections	4			X
22	Health and Welfare	43			X
23	Transportation	20			X
25	Internal Security	6			X
26	Labor and Industry	3		X	
28-A	Liquors	29			X
29-A	Motor Vehicles	180			X
30-A	Municipalities and Counties	29			X
32	Professions and Occupations	1			X
34-A	Corrections	1		X	

* While these statutes are labeled Crimes or Criminal, there are sections that have civil penalties for certain offenses.

	VOTE TALLY –APPENDIX G			
Item Number	**Description**	**Yes**	**No**	**Abstain**
Bail # 1	1. Regular State funding should be provided each year so that mandatory in-person bail commissioner training can occur. Estimated cost $5,000-$6,000 per year.	25	0	0
Bail # 2	2. Mandatory yearly training for bail commissioners should occur.	25	0	0
Bail # 3	3. There should be established a statewide fund from which bail commissioner fees should be paid. Estimated cost (rough estimate) $1,600,000/year	20	3	2
Bail # 4	4. Law Enforcement Officers need more training on the VCR law and the role of officer discretion in deciding whether to arrest or summons for a VCR violation. Costs for this training could be absorbed by being scheduled into the Maine Criminal Justice Academy's annual mandatory training schedule budget.	23	1	1
Bail # 5	5. The current bail bond (CR-001) and Conditions of Release form (CR-002) should be revised to separate out alcoholic beverages, illegal drugs or dangerous weapons so that only those elements that are warranted for a particular case are ordered as a bail condition. Costs for these revisions ($15,000) could be absorbed by the Judicial Branch.	23	0	2

Bail # 6	6. There needs to be state funding provided for, and standardized training materials developed and delivered, to prosecutors, judges, lawyers of the day and defense counsel on conditions of bail and the use of bail conditions in compliance with 15 M.R.S. § 1002. Costs for this project would be in the $20,000-$25,000 range depending upon the numbers of persons trained, location of the training and the umber of training sessions held.	10	8	7
Bail # 7	7. State funding should be provided to allow for the independent validation of the pretrial risk assessment tools currently being used by MPTS. A Maine based validated tool should be adopted for use statewide. Costs for similar studies in other jurisdictions have ranged from $75,000-$350,000.	14	8	4
Bail # 8	8. Adequate state funding should be provided to ensure consistently available statewide pretrial supervision in the community. Whether someone is released on a PTS contract should not be dependent upon the availability of such services in that community or the defendant's place of residence. Costs for such services, statewide, could exceed $1,600,000 per year.	16	5	3
Bail # 9	9. The State of Maine Department of Corrections should be provided sufficient funding for staffing to supervise those probationers charged with violations of probation. The DOC/Criminal Justice system should stop relying upon MPTS to supervise persons charged with a probation violation. Estimated cost for this would be approximately $789,467 per year.	8	12	4

Bail # 10	10. 15 M.R.S. § 1025-A should be amended to allow a properly authorized and trained county jail employee to prepare and execute a PR or unsecured bail bond when a bail commissioner orders such a bail.	25	0	0
Bail # 11	11. 15 M.R.S. § 1026(3), Standards for Release on Preconviction Bail, should be amended to include specific language about 1. refraining from the possession of alcohol, or illegal drugs ,2. a showing of a demonstrated need for the imposition of the condition; and 3. a specific reference to the search.	23	2	0
Bail # 12	12. 15 M.R.S. § 1051, Post Conviction Bail, should be amended to set out the standards for bail with respect to a motion to revoke probation.	24	0	0
Bail # 13	13. 17-A M.R.S. §1205-C, Initial Appearance on Probation Violation, should be amended to reference the proposed change in item 12 above.	24	0	0
Bail # 14	14. The State should eliminate the availability of unsecured bonds for bail. 15 M.R.S. § 1026 (1) (A) and (C), (2-A).	23	1	0

Bail # 15	15 M.R.S. § 1073-A (1), Precondition to Forfeiture of Cash or Other Property of a Surety if a Defendant Violates a Condition of Release: Notice, should be repealed.	16	6	1
Bail # 16	16. 15 M.R.S.§ 1023(4), Limitation on Authority of Bail Commissioners to Set Bail, should be amended to add a restriction that bail commissioners should not be allowed to set the condition of random search and seizure for drugs or alcohol.	22	2	0
Bail # 17	17. The Chief Justice should appoint a select committee to study, in depth, the bail systems of other jurisdictions that have completely, or almost completely, eliminated cash bail and instead instituted a system that utilizes risk assessment and pretrial supervision instead. Outside funding to support this study is currently available.	24	0	0
Bail # 18	18. The Judicial Branch should further study the possible implementation of a pilot project that uses pretrial risk assessment results in setting bail.	22	1	2
Bail # 19	19. 17- A M.R.S. § 1205-C (4), Initial Appearance on a Probation Violation, should be amended to require that a hearing be scheduled within 45 days if the person is held without bail on an allegation of a probation violation.	17	4	2
Bail # 20	20. 15 M.R.S.§ 1023(4)(E), Initial Appearance, should be amended by requiring that in all Domestic Violence Cases, an initial appearance or arraignment shall take place no later than five weeks from the date of arrest.	22	0	0

Appendix G

Fines #1	1. The Judicial Branch should raise the minimum dollar threshold for issuing a warrant for Failure to Appear for an Unpaid Fine hearing from the current level of $25 to $100.	22	0	0
Fines # 2	2. The Legislature should enact language that permits the sentencing judge to impose a fine that is less than the mandatory minimum in those situations where an individual is truly unable to pay a fine This would be similar to a judicially imposed "safety valve". This language should not apply to OUI fines.	22	0	0
Fines # 3	3. The criminal justice system should implement/expand public service work programs to pay off fines consistent with 17-A M.R.S. § 1304(3) for Class C, D and E crimes. It should be administered by the Sheriff or a monitoring agency and should apply only towards those who have demonstrated the most difficulty with paying a fine. The dollar amount credited should be set at the State minimum wage figure.	21	0	0
Fines # 4	4. The Judicial Branch should formulate a detailed fine collection procedure throughout the state that is standard and uniformly applied.	20	1	0
Fines # 5	5. The Judicial Branch should create a mechanism, and provide training on that mechanism, to discourage the imposition of "going rate" fines. Instead fines should be imposed with the requirements of 17-A 1302(1) in mind.	7	10	2

Pretrial Diversion # 1	1. The Judicial Branch should conduct a statewide survey of existing Maine Criminal Justice Diversion Programs. The survey should include information on the various programs, what constitutes effective and efficient programming and what policies, practices and innovations may be applicable in Maine. The survey should consider all programs and especially those programs that afford individuals an opportunity to address their behavior without resulting in a criminal conviction.	19	1	0
Pretrial Diversion # 2	2. There should be established and implemented a one-day statewide educational forum on Community Based diversion programs. This forum should occur in order to educate attendees on the various programs, approaches and effects of diversion programs on a local, state, national, and international level that protect public safety, spend resources wisely and promote health and restored citizenship. Costs for such a forum could easily exceed $20,000 depending upon the location, number of attendees, speaker fees and travel costs and room rental.	17	2	0
Pretrial Diversion #3	3. The Chief Justice should establish an ongoing, statewide task force whose primary purpose is to explore, recommend and assess Diversion processes and to establish a Justice Diversion system for the State of Maine. Programs to be explored and/or implemented statewide include LEAD (Law Enforcement Assisted Diversion), a partnership between Maine Pretrial Services and Restorative Justice in Maine to incorporate pre-arraignment screening of defendants and recommendations for post booking diversion to restorative justice based programs that upon successful completion could result in dismissal or reduction of charges and, in cooperation with the Maine business community, development of a pretrial loss prevention program to divert first time offenders.	5	9	1

Pretrial Diversion #3 as amended	3. The Chief Justice should establish an ongoing, statewide task force whose primary purpose is to explore, recommend and assess Diversion processes and to establish a Justice Diversion system for the State of Maine.	15	0	0
Please note	Not all vote tallies totals add up to the same number. This is because for some items, individual members of the committee had either stepped out of the meeting or had left the meeting due to other commitments. For those members who were unable to attend the November 6th meeting where the votes were taken, an absentee ballot was sent to each of them thereby giving them an opportunity to vote. Those who returned their ballots had their votes included in the final tally.			

Pre-Trial Justice Reform Task Force

2015

So why are we gathered here today?

- Maine has the lowest violent crime rate in the United States. According to the FBI:
  - Maine's population in 2013 was 1,328,302.
  - The violent crime rate in Maine was 121 violent crimes per 100,000 persons.
  - The national violent crime rate was 367.9 violent crimes per 100,000 persons.
    - Source- Federal Bureau of Investigation, www.fbi.gov/about-us/cjis/ucr/crime-in-the-U.S./2013, last reviewed June 10, 2015

Appendix H

Maine also has the lowest incarceration rate in the nation:

- In 2013, Maine's incarceration rate was 148 persons per 100,000 population.
- Other states with low incarceration rates per 100,000 included:
  - Minnesota-148/100,000
  - Massachusetts-192/100,000
  - Rhode Island-194/100,000

Appendix H

Now compare our incarceration rate to our neighbors in the South:

- Louisiana 893/100,000
- Mississippi 717/100,000
- Alabama 650/100,000
- Oklahoma 648/100,000
- Texas 601/100,000

Source-US Department of Justice, Bureau of Justice Statistics, at www.bjs.gov/content/pub/pdf/cpus13, last reviewed June 10, 2015

Appendix H

The Department of Public Safety reports:

- Reported crimes in Maine in 2013 dropped 9.1% from the year before, the largest decrease in crime in 20 years. Figures for 2014 or the first half of 2015 are not available.
- While overall, the violent crime rate (murder, rape, robbery and aggravated assault) was up 2.8%, other "non-violent index crimes" (burglary, larceny, arson, hate crimes and motor vehicle theft) had significant decreases.
- Property crimes (burglary, larceny, motor vehicle theft and arson) accounted for 94.8% of all reported crimes.
- Androscoggin, Penobscot and Somerset Counties had the highest crime rates per 1,000 persons while Aroostook, Lincoln and Waldo Counties had the lowest rates.
- Source, *Crime in Maine, 2013*, Maine Department of Public Safety at www.maine.gov/dps last reviewed June 10, 2015.

Appendix H

Other crime statistics

Maine saw the following increases in reported crimes in 2013:

- Aggravated Assaults- Up 17.4%
- Drug Arrests-Up 1.3%

The following reported crimes had decreases in 2013:

- Burglary- Down 13.1%
- Larceny- Down 7.35%
- Arson- Down 38.1%
- Domestic Violence- Down 1.9%
- Robbery- Down 20.4%
- Hate Crimes- Down 56%

Appendix H

Yet, our county jail populations of pre-trial inmates continue to grow:

- In FY 2010, the number of pre-trial inmates , averaged 57.7% of the total county jail inmate population statewide.
- In FY 2011, it increased to 57.25%.
- In FY 2012, it was 56.58%.
- In FY 2013, the number increased nearly 4.5 % to 61.07%.
- In FY 2014 the number was 62.21%.
- For July-December 2014 the number jumped to 69.4%.

Appendix H

More troubling, however, were some of the July-December 2014 rates of pre-trial detainees compared to the total county jail census

ANDROSCOGGIN	82.01%	PENOBSCOT	67.42%
AROOSTOOK	75.62%	PISCATAQUIS	56.28%
CUMBERLAND	62.24%	SOMERSET	68.93%
FRANKLIN	76.97%	TWO BRIDGES RJ	70.01%
HANCOCK	70.01%	WALDO-72 HOUR	65.84%
KENNEBEC	76.63%	WASHINGTON	58.11%
KNOX	55.62%	YORK	73.76%
OXFORD	81.15%		

So, What is going on?

- That is what we are here for!
- We, all of us, need to examine the problem, seek out evidence and propose solutions……
- Thank you for coming.

Appendix H

Goals

The primary responsibilities of the Task Force are to review the relevant current research and data; address existing resources, procedures, and programs; and make recommendations that

- Will reduce the human and financial costs of pretrial incarceration and restrictions, and
- Will do so without compromising individual or community safety or the integrity of the criminal justice system.

Pretrial Detention

- Conditions of Release
- Secured vs. Unsecured Bail
- Decision to Arrest vs. Summons
- Bail Code
- Electronic Monitoring
- Motions To Revoke Pre-Conviction Bail
- Motions To Revoke Probation
- Pretrial Contracts (VOA, Maine Pretrial)
- Development and Implementation of Risk Assessment Tools Relating to Objective Assessments for Suitability of Release
- Title 15 Evaluations
  - Competency
  - Criminal Responsibility

Appendix H

Impact of Collection of Fines on Jails

Many fines are set by statute and require minimum **mandatory** amounts that **cannot be suspended**

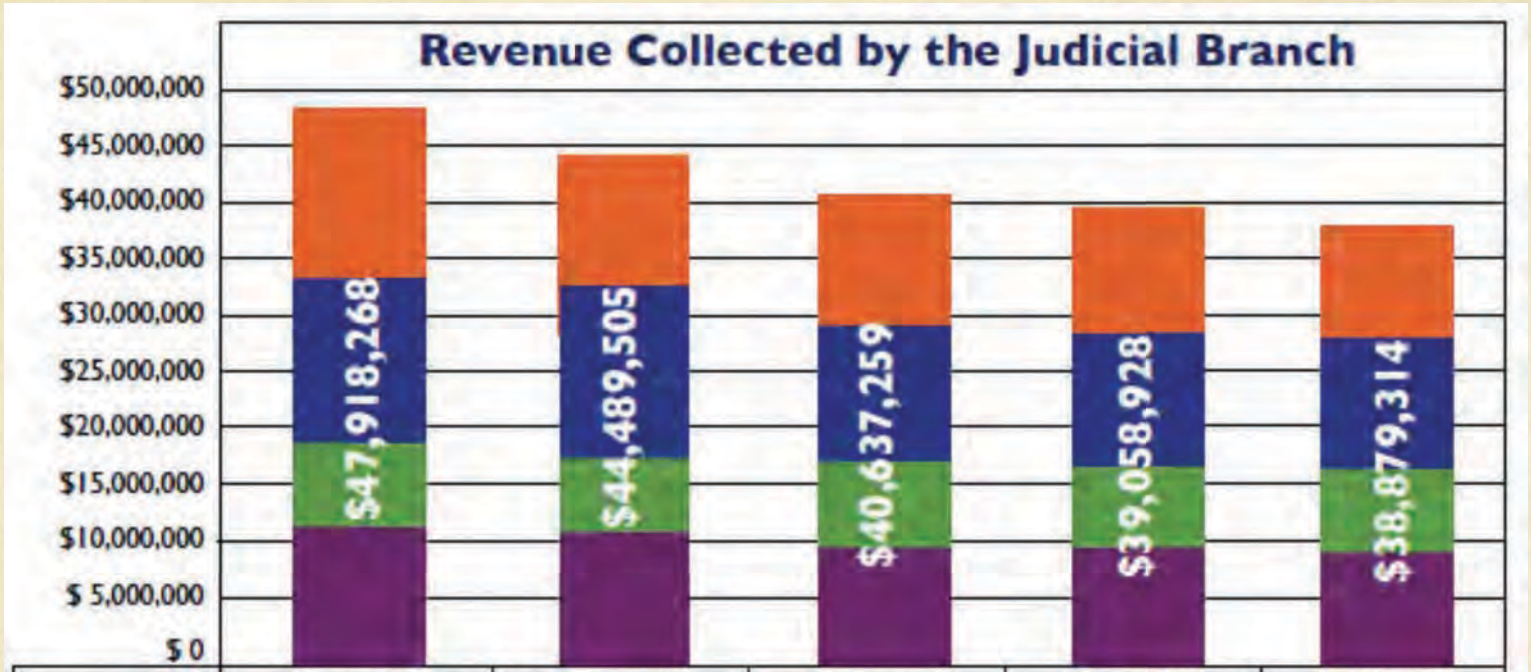
- Regarding a sentence for misdemeanor assault "the Court shall impose a sentencing alternative that involves a fine of not less than $300.00, **which may not be suspended . . . .**"
- Possession of usable amount of marijuana, first offense: $350.00 fine; possession of drug paraphernalia: $300.00 fine

Statutory "preference" for fine in lieu of incarceration

"Court shall consider the desirability of imposing a sentencing alternative involving a fine either in conjunction with or *in lieu of imprisonment . . . .*"

See 17-A M.R.S. § 1301-A

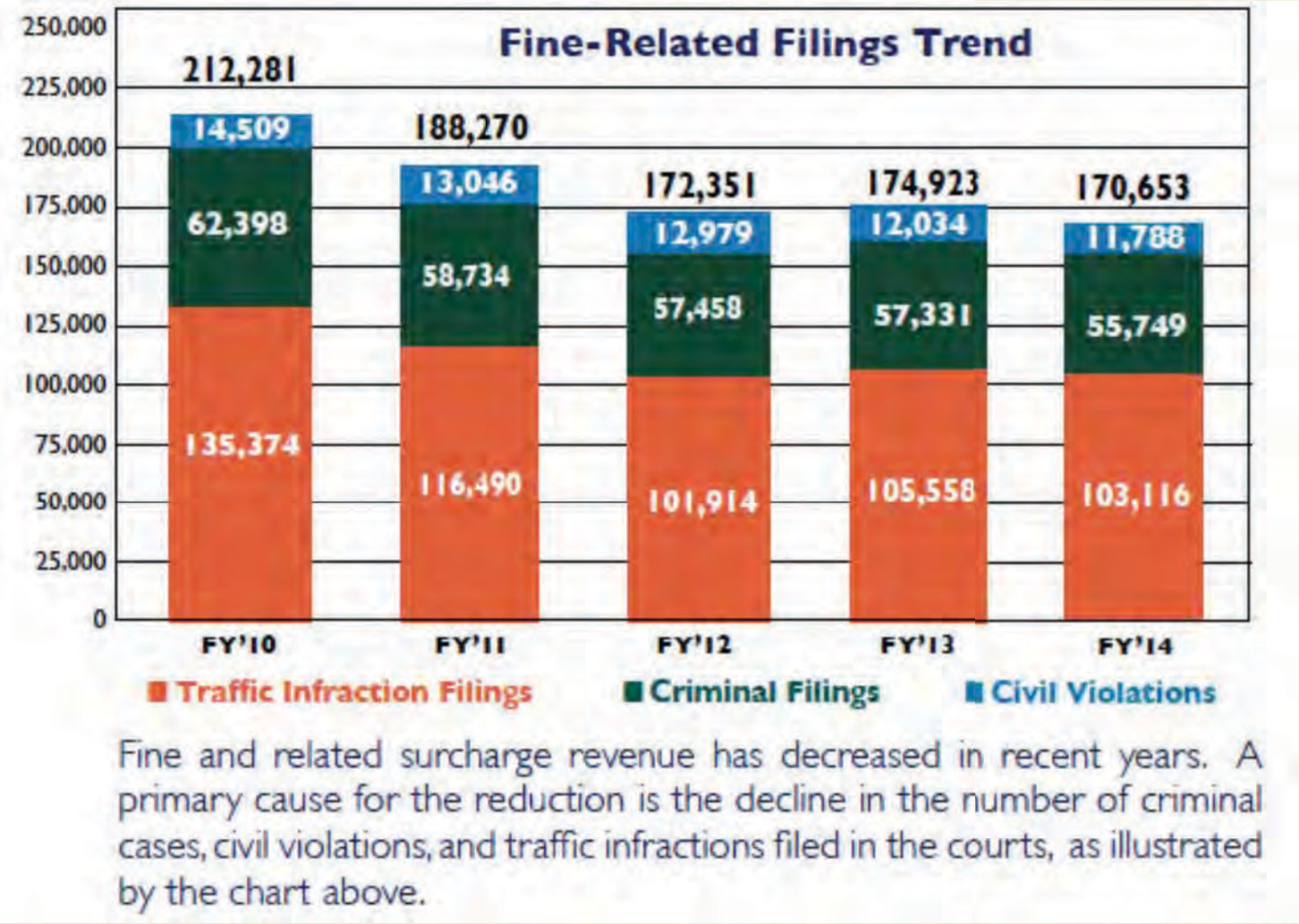
Appendix H



	FY'10	FY'11	FY'12	FY'13	FY'14
Traffic Fines	$14,021,155	$12,245,878	$10,822,640	$10,733,449	$10,755,802
Court Fines	$15,096,534	$14,394,383	$13,610,238	$12,158,633	$12,047,353
Surcharges	$8,089,914	$7,361,827	$6,624,443	$6,511,969	$6,617,812
Fees	$10,710,665	$10,487,417	$9,579,938	$9,654,877	$9,458,347

Source- *Maine Judicial Branch 2014 Annual Report*

Appendix H



Fine and related surcharge revenue has decreased in recent years. A primary cause for the reduction is the decline in the number of criminal cases, civil violations, and traffic infractions filed in the courts, as illustrated by the chart above.

Source- *Maine Judicial Branch 2014 Annual Report*

Community/Public Service Work to "satisfy" fine obligation

- When Is Community Service **not** community service?
- Who supervises?

Here are some examples (some may be more legitimate than others, it is truly difficult to know)

- http://www.communityservicehelp.com/
- http://www.certifiedcourtclasses.com/community-service-online.html
- http://interventiontreatmentrecovery.org/get-involved/volunteering/?gclid=CKnj7qSQhcYCFZAAaQodcRcA8w
- http://www.courtorderedcommunityservice.com/mission.php
- http://handmaidensministriesinc.org/programs/community-service/

Appendix H

Title 17-A M.R.S. § 1304(3)

3. Either the attorney for the State or the court may initiate a motion to enforce payment of a fine. Notification for the hearing on the motion must be sent by regular mail to the offender's last known address. If the offender does not appear for the hearing after proper notification has been sent, the court may issue a bench warrant. A court need not bring a motion to enforce payment of a fine nor notify the offender by regular mail of the date of the hearing if at the time of sentence imposition the court's order to pay the fine and accompanying warnings to the offender comply with Title 14, section 3141, subsection 3 or 4 and, if the offender fails to appear as directed by the court's fine order, the court may issue a bench warrant.

17 M.R.S. § 1304(3)(A)

A. Unless the offender shows by a preponderance of the evidence that the default was not attributable to an intentional or knowing refusal to obey the court's order or to a failure on the offender's part to make a good faith effort to obtain the funds required for the payment, the court shall find that the default was unexcused and may:

17-A M.R.S.A. § 1304(3)(A)(1)

(1) Commit the offender to the custody of the sheriff until all or a specified part of the fine is paid. The length of confinement in a county jail for unexcused default must be specified in the court's order and may not exceed 6 months. **An offender committed for nonpayment of a fine is given credit toward the payment of the fine for each day of confinement that the offender is in custody at the rate specified in the court's order, which may not be less than $25 or more than $100 of unpaid fine for each day of confinement.** The offender is also given credit for each day that the offender is detained as the result of an arrest warrant issued pursuant to this section. An offender is responsible for paying any fine remaining after receiving credit for confinement and detention.

Title 17-A M.R.S. § 1329(3)

3. Motion to enforce payment of restitution. Either the attorney for the State or the court may initiate a motion to enforce payment of restitution. Notification for the hearing on the motion must be sent by regular mail to the offender's last known address. If the offender does not appear for the hearing after proper notification has been sent, the court may issue a bench warrant.

Appendix H

Title 17-A M.R.S. § 1329(3)(A)

A. Unless the offender shows by a preponderance of the evidence that the default was not attributable to an intentional or knowing refusal to obey the court's order or to a failure on the offender's part to make a good-faith effort to obtain the funds required to make payment, the court shall find that the default was unexcused and may commit the offender to the custody of the sheriff until all or a specified part of the restitution is paid. **The length of confinement in a county jail for unexcused default must be specified in the court's order and may not exceed one day for every $5 of unpaid restitution or 6 months, whichever is shorter.** An offender committed for nonpayment of restitution is given credit toward the payment of restitution for each day of confinement that the offender is in custody, at the rate specified in the court's order. The offender is also given credit for each day that the offender has been detained as the result of an arrest warrant issued pursuant to this section. An offender is responsible for paying any restitution remaining after receiving credit for confinement and detention. A default on the remaining restitution is also governed by this section.

CUMBERLAND COUNTY JAIL 2005 PRE-ARRAIGNMENTS

Introduction

This brief addresses the following questions: *1. What do we know about bookings of arrested persons at the Cumberland County Jail? 2. What do we know about pre-arraignment bookings by Cumberland County law enforcement agencies?* In 2006, Cumberland County hired the Muskie School of Public Service to help provide information for county planning purposes. The Muskie School examined the rates of all bookings[1] (including pre-arraignment bookings) originated by all county law enforcement agencies to the jail in 2005.

Over the last ten years the average population in county jails has increased dramatically in Maine. In 2003, the total in-house population in county jails averaged 1,450 inmates, nearly double the average in 1994. This increase is consistent with other state and national county jail population increases. In a time of enormous fiscal constraints, state and county prison and jail expenses are steadily escalating. The result is overcrowding, which adds more wear and tear on existing facilities, and limits the availability of adequate treatment programs.

Maine County Jail Population

Year	Female	Male	Total	Change
1994	37	694	731	-
2003	153	1,297	1,450	98%

Findings

Demographics

In 2005, the Cumberland County Jail processed 10,260 bookings of persons charged with one or more offenses. In 34% of bookings for which actual residence was known or declared, the person was a Portland resident. In 2005, the census estimated that Portland accounted for 23% of the county population.[2] Males accounted for 81% of the bookings to the jail in 2005. In 88% of bookings for which race was identified, the person was white.[3] In 2004, the population of Cumberland County was 95% white.[4]

[1] A booking refers to the recording the name of an arrested person in a sequential list of police arrests with the details of the person's identity, particulars of the alleged offense, and the arresting officer's name. Black's Law Dictionary, 3rd pocket edition, 2006. When someone is booked they are assigned a judicial status. The most common booking status at the Jail is pre-arraignment. A pre-arraignment occurs before a person is arraigned (officially charged) for an offense in a court proceeding before a judge. Depending on what led to the arrest, a person may be granted bail or held until arraignment. Other types of bookings that occur at the jail are: pre-trial, pre-sentence, sentenced, federal prisoner, immigration prisoner, other agency hold, probation hold, probation revocation, and fugitive.

[2] http://factfinder.census.gov/servlet/SAFFPopulation?_event=Search&_name=Cumberland+County+&_state=04000US23&_county=Cumberland+County&_cityTown=Cumberland+County&_zip=&_sse=on&_lang=en&pctxt=fph

[3] Of the other 12%, African Americans accounted for 7%, Hispanics 3%, Asian/Pacific Islander 1%, and Middle Eastern/Arabic 1%. The jail management information system lumps some ethnicities (e.g., Hispanic and Middle Eastern) with the racial categories.

[4] http://quickfacts.census.gov/qfd/states/23/23005.html

Publication Date
January, 2007

Contact
George Shaler

This brief can be found at the Maine Statistical Analysis Center website: http://muskie.usm.maine.edu/justiceresearch

Maine Statistical Analysis Center

The SAC serves as a clearinghouse for data collection and statistical analysis for the Maine criminal justice system, promotes a research-based approach and conducts research that support its identified priorities and objectives.

The Maine SAC is located at the Muskie School of Public Service, University of Southern Maine.

Jail Days

Most (86%) bookings resulted in no days spent in jail. Many individuals posted bail, were released and given a court date. Among those booked in 2005 who also spent time in the jail, the average length of stay was 21 days. However, more than half of offenders who spent time in jail (53%) were there for seven days or less. The table below depicts the number of jail days served.

	Frequency	**Mean Number of Jail Days Served**
Total Bookings	10,260	2.94
Bookings with Jail Days	1,408 (14%)	21.44

Alcohol/Drug Use

In nearly a third (31%) of all bookings at the jail in 2005, the offender had been drinking, was intoxicated and/or was classified as having a narcotics infraction. Some bookings occurred after a court appearance or when a person was reporting for sentencing, rendering it unlikely they were consuming alcohol or other drugs.

Types of Offenses

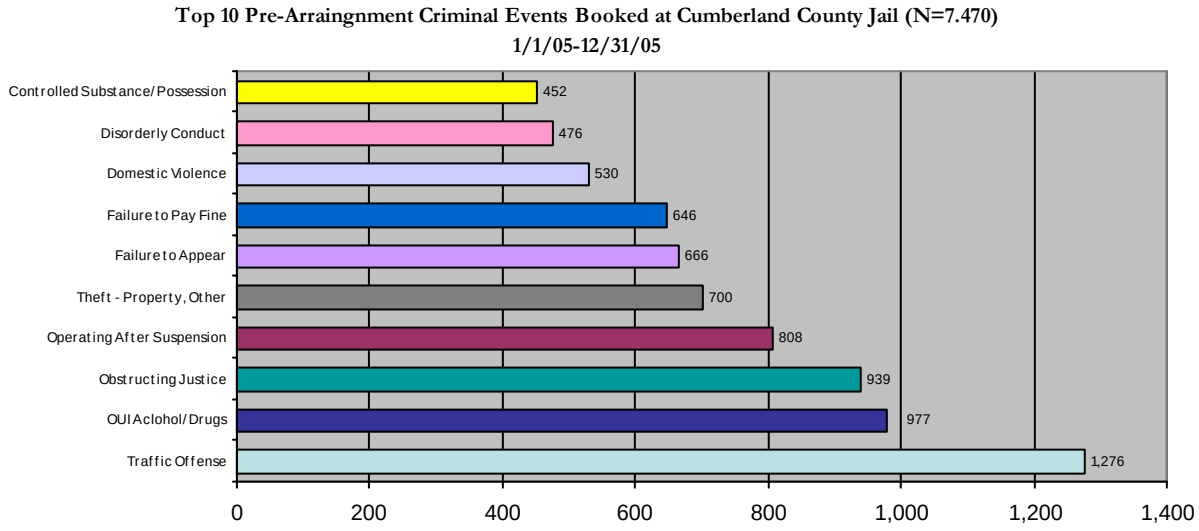
Misdemeanors account for most Cumberland County Jail bookings. More than three-quarters (83%) of all bookings with a listed offense category were for D & E offenses (misdemeanor offenses).

Bookings by Law Enforcement Agency

Of the 9,607 bookings in which a law enforcement agency was designated as the "arresting agency", Cumberland County law enforcement agencies made 59% of them. The other 41% of all bookings were made by law enforcement agencies outside of the county, including the Maine State Police, courts, and probation. Five Cumberland County law enforcement agencies - Portland, South Portland, Cumberland County Sheriff's Office, Scarborough, and Westbrook - accounted for 84% of all bookings made by Cumberland County law enforcement agencies in 2005.

Pre-arraignment Offenses

Of 10,260 bookings in 2005, 6,641 (65%) were pre-arraignments. Of the 6,083 pre-arraignment bookings with an offense category listed, 87% were either a Class D or E offense – a misdemeanor. The table below illustrates the 'top ten' offense types, which account for 71% of pre-arraignment criminal events, led by traffic offense, OUI alcohol/ drugs, and obstruction of justice offenses.



Pre-arraignments and Location of Offense and Offender Residence

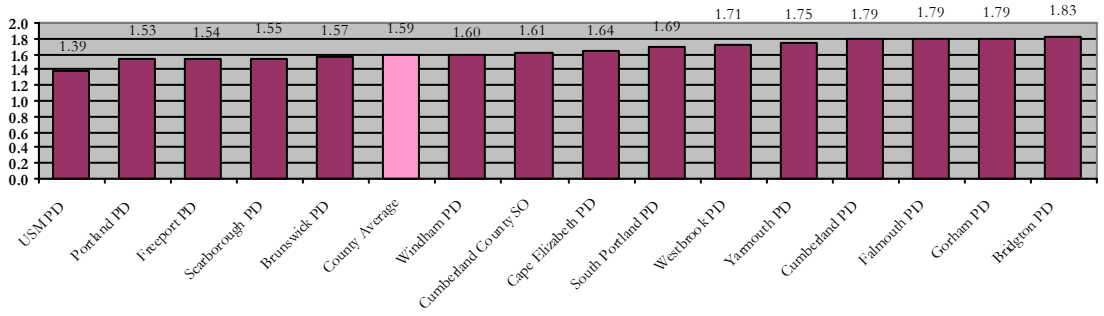
In more than three-quarters (76%) of pre-arraignment bookings, Portland, South Portland, Scarborough, Westbrook, and Gorham were listed as the areas in which the offense occurred. In 41% of all pre-arraignments, the offender listed Portland as his/her city of residence.

Pre-arraignments and Geographic Location of Law Enforcement Agency

County law enforcement agencies less than 10 miles from the jail tended to pre-arraign persons issued with a criminal citation at the jail more so than agencies further away. Agencies less than 10 miles away pre-arraigned 55% of persons issued a criminal citation compared to 24% among agencies further away from the jail.

The Bridgton Police Department recorded the most offenses per 'decision to book' an offender at the pre-arraignment stage at the Cumberland County Jail (1.83 offenses per booking). Given the distance, roughly 40 miles, and resources consumed in delivering an offender to the jail, an offender with multiple offenses appears to be one criterion for deciding who to transport to the Jail by the Bridgton Police Department. The USM and Portland police departments – those departments closest to the jail - had the lowest offense to booking rates at 1.39 and 1.53 respectively.

All Offenses per Pre-Arraignment Booking for Cumberland County LEAs (N=5,671)
1/1/05-12/31/05



Pre-Arraignments among Repeat Offenders

The majority (64%) of 5,088 offenders pre-arraigned in 2005 were booked just once at the jail. Fourteen percent (23%) of offenders were pre-arraigned twice, 8% three times, and 5% four or more times.

Implications

In her recently released report, *Pretrial Case Processing in Maine: A Study of System Efficiency & Effectiveness* to Maine's Corrections Alternative Advisory Committee, Dr. Marie VonNostrand recommends that "Law enforcement agencies should develop or review policies … and ensure that by policy, practice, and through training, officers are strongly encouraged to utilize summonses in lieu of arrests..."[5] The current practice in Cumberland County is contributing to the rising number of inmates incarcerated pending trial. Since 2002, the percentage of inmates awaiting trial has risen from 65% to 87%.[6] While the percentage of inmates awaiting trial is higher at the jail, the increase is consistent with state and national trends. What this means is that only 13% of the inmates at the jail have been sentenced.

More than three-quarters (83%) of all bookings and 87% of pre-arraignment bookings with a listed offense category were for D & E offenses (misdemeanor offenses). The findings suggest that some county law enforcement agencies might be able to issue summonses "in the field" for these types of offenses instead of bringing them to the jail. The use of summonses would reduce costs for the jail and the arresting agency. Some or all county law enforcement agencies might choose a class of crimes, such as E offenses, or a particular type of misdemeanor crime(s) to test the use of issuing summonses in the field.

[5]VonNostrand, M. Pretrial Case Processing in Maine: A Study of System Efficiency & Effectiveness, September 2006. A study prepared for the Maine's Corrections Alternative Advisory Committee
[6]Ibid

Appendix J

BAIL BOND ☐ **AMENDED**

☐ UNIFIED CRIMINAL ☐ DISTRICT ☐ SUPERIOR CT located at _____ Docket No._____

STATE OF MAINE v. _____, Defendant

Defendant's mailing address _____

Defendant's residence address (if different): _____

Date of Birth _____ **SS Number Disclosure Required on separate form**

Hair Color_____ Eye Color _____ Height_____ Weight _____ Gender _____ Race _____

Home phone # _____ Work phone #_____ Cell phone #_____

For Title 29-A violations, driver's license number required _____ State _____

Date of Offense(s) _____ Location of Offense(s)_____

Offense(s), Class of offense, Seq #, Title & Section, ATN/CTN of each offense:

_____

_____

Law enforcement officer and agency: _____

The following apply if checked:

☐ **PERSONAL RECOGNIZANCE.** I am released on my promise to appear.

☐ **UNSECURED.** If I fail to appear as this Bail Bond requires I will owe the State of Maine $_____.

☐ **SECURED.** To be released from custody the following property is being posted. The property is:

☐ Cash in the amount of $_____ (see reverse for designation of third-party ownership) **OR**

☐ Real estate (or _____) with a net value of $_____.

☐ Bail Lien. ☐ Within 1 working day after today. ☐ Before I may be released, a lien on real estate described must be recorded in the Registry of Deeds in the county where the real estate is located, and proof of such recording must be filed with the clerk of the court listed above. (Note: The Registry of Deeds and clerk's office are different offices and may be in different counties.)

☐ **CONCURRENT.** This bail is concurrent to the bail previously posted in (list court and docket number): _____

I agree to obey the following conditions of my release so long as this bail bond remains in effect. I understand that it is a crime for me to violate any of these conditions, and that if I violate these conditions I will be subject to arrest, jail and/or a fine.

1. I will appear at the Unified Criminal Court located at _____ in _____ (City/Town), _____ (County) Maine, Tel # (207) _____, on _____ at _____ (a.m.) (p.m.) and on any other date and time and at the court the justice, judge or clerk tells me to appear.
2. I will commit no criminal act and will not violate any protection from abuse orders.
3. I will immediately give written notice of any change in my address or telephone number to the court named above.
4. I waive extradition to the State of Maine from any other State of the United States, from the District of Columbia, from any territory of the United States, and from any other jurisdiction whatsoever, for prosecution on the charge(s) above.

Additional conditions which I agree to obey, if checked. I will

☐ not use any alcoholic beverages or illegal drugs ☐ not possess any alcoholic beverages or illegal drugs

☐ not possess any dangerous weapons, including, but not limited to, firearms.

☐ In order to determine if I have violated any prohibitions of this bond regarding alcoholic beverages, illegal drugs or dangerous weapons, I will submit to searches of my person, vehicle and residence and, if applicable, to chemical tests

☐ at any time without articulable suspicion or probable cause ☐ upon articulable suspicion.

☐ participate in an electronic monitoring program.

☐ have no direct or indirect contact with (*name and dob)*_____

_____ except as is necessary

☐ for counseling; ☐ to pay child support; ☐ for child contact; ☐ by telephone; ☐ _____

☐ and not enter any ☐ residence ☐ place of employment ☐ place of education of any such person(s)

☐ except for a single time, while accompanied by a police officer, for the purpose of retrieving defendant's personal effects.

☐ not operate any motor vehicle under any circumstances ☐ unless lawfully licensed to do so.

☐ **Defendant cannot be released unless a supervised bail contract is executed and approved by the Court. Def. must abide by contract conditions.**

☐ _____

☐ As a condition of my release, I shall comply with any condition(s) set forth on the Conditions of Release form.

☐ **THE CASH BAIL HAS BEEN POSTED BY A THIRD PARTY**

I have read and I understand all my obligations under this bond. Defendant: _____

I have explained the defendant's (and if applicable, the surety's/third party's) obligations under this bond on this date and will give a copy of this form to the defendant and surety/third party immediately after signing it.

Dated: _____ at _____am / pm. _____ _____

at _____, Maine. Justice /Judge/Clerk/Bail Commissioner Printed Name of Bail Commissioner

Appendix J

☐ **COMMITMENT ORDER with CONDITIONS OF RELEASE**
☐ **CONDITIONS OF RELEASE**

☐ UNIFIED CRIMINAL ☐ DISTRICT ☐ SUPERIOR COURT located at _____

Docket No. _____

STATE OF MAINE v. _____, Defendant

OFFENSE(S) _____

_____ ATN/CTN _____

Defendant shall be held at the ☐ _____ County Jail ☐ Department of Corrections

☐ without bail ☐ as indicated on attached Bail Bond form ☐ until bail is posted as follows:

☐ **PERSONAL RECOGNIZANCE**. ☐ **UNSECURED**. Defendant is not required to post any security to be released, but if defendant fails to appear as the Bail Bond requires defendant shall owe the State of Maine $_____

☐ **SECURED**. Defendant shall be released from custody only after the following security is posted.

☐ Cash in the amount of $_____ or ☐ No Third Party Bail Allowed

☐ Real estate (or_____) with a net value (total value less encumbrances) of $_____.

☐ Bail Lien. ☐ Within 1 working day after today ☐ Before defendant may be released, a lien on the real estate described must be recorded in the Registry of Deeds in the county where the real estate is located, and proof of such recording must be filed with the court listed above. (Note: The Registry of Deeds and the clerk's office are different offices and may be in different counties.)

☐ **SUPERVISED RELEASE: Check One Box Only** ☐ AND ☐ OR in the alternative, defendant is released to the custody of a supervised bail contract pursuant to terms and conditions provided in the contract.

☐ **CONCURRENT.** This bail is concurrent to the bail previously set/posted in (*list court and docket number*): _____

_____

The following special condition(s) also apply to the defendant: The defendant shall

☐ not use any alcoholic beverages or illegal drugs ☐ not possess any alcoholic beverages or illegal drugs

☐ not possess any dangerous weapons, including, but not limited to, firearms.

☐ In order to determine if s/he has violated any prohibitions of this bond regarding alcoholic beverages, illegal drugs or dangerous weapons, s/he will submit to searches of her/his person, vehicle and residence and, if applicable, to chemical tests

☐ at any time without articulable suspicion or probable cause. ☐ upon articulable suspicion.

☐ participate in an electronic monitoring program.

☐ have no direct or indirect contact with *(name and dob)* _____

_____ except as is necessary

☐ for counseling; ☐ to pay child support; ☐ for child contact; ☐ by telephone; ☐ _____

☐ and not enter any ☐ residence ☐ place of employment ☐ place of education of any such person(s)

☐ except for a single time, while accompanied by a police officer, for the purpose of retrieving defendant's personal effects.

☐ maintain or actively seek employment; ☐ maintain or commence an education program;

☐ participate in regular substance abuse counseling and provide proof of such counseling upon request.

☐ undergo ☐ medical ☐ mental health ☐ evaluation ☐ counseling/treatment & provide proof of such counseling/treatment upon request.

☐ complete certified Batterer's Intervention Program ☐ undergo other counseling/treatment _____

_____ and provide proof of such counseling/treatment upon request.

☐ abide by the following restrictions on personal associations, place of abode, or travel: _____

_____

☐ report ☐ daily ☐ _____, ☐ in person ☐ by phone, to ☐ probation officer ☐ _____

☐ report ☐ weekly ☐ _____, ☐ in person ☐ by phone, to ☐ probation officer ☐ _____

☐ comply with the following curfew: _____

_____

☐ participate in ☐ outpatient ☐ voluntary inpatient treatment; at or with _____

☐ take medications as prescribed.

☐ not operate any motor vehicle under any circumstances ☐ unless lawfully licensed to do so.

☐ _____

If the defendant makes bail, the defendant is required to appear:

At the Unified Criminal Court on _____ and on any other date and time and at the court the justice, judge or clerk tells me to appear.

(This Conditions of Release form to be attached to defendant's Bail Bond.)

Date: _____ _____ _____

Justice / Judge / Clerk / Bail Commissioner Printed Name of Bail Commissioner

Recommendations of the Bail and Pretrial Detention Subcommittees
October 22, 2015

The subcommittees met numerous times over the course of the summer. Another meeting will be held next week. To date, we have agreed upon the following recommendations:

1. Regular state funding should be provided each year so that mandatory in-person bail commissioner training can occur. It is estimated that a budget in the area of $5000-$6000 per year would be sufficient.

2. Mandatory yearly training for bail commissioners should occur. Topics that should be covered include:

a. New laws
b. Detailed training on VCR matters and conditions-what is appropriate?
c. Additional training on how to determine which offenses a bail commissioner can/cannot set bail
d. Bail commissioner discretion
e. Use of evidence based risk assessment factors to make bail determinations
f. Factors to determine whether a search condition is appropriate and which type of search (random v. articulable suspicion) should be imposed.

3. There should be established a statewide fund from which bail commissioner fees should be made available to pay bail commissioners for their efforts. While the current statute and training does provide that on occasion bail commissioners should be required to perform their services "pro bono", and while another section of the Bail Code permits counties to establish a bail commissioner fund, committee members felt that the availability of such a fund in each and every county should be provided. This would remove the barrier to quickly securing release.

4. Based upon the statistics provided in the Limited Study of Pretrial Detainees at 5 County Jails report, the subcommittee did not see a need to make any revision to the VCR statute itself. The members would like to see an additional study/evaluation of case files and bail conditions to determine if there is a need to place further limits/clarifications on certain conditions.

5. Law enforcement officers need more detailed training on the VCR law and the role of officer discretion in deciding whether to arrest or just summons for a VCR violation.

6. The current bail bond (CR-001) and Conditions of Release Form (CR-002) should be revised to separate out alcoholic beverages, illegal drugs or dangerous weapons (perhaps by a separate check box in front of each of these items) so that only those elements that are warranted are ordered as a bail condition.

7. There needs to be state funding provided for, and standardized training materials developed and delivered, to prosecutors, judges, lawyers of the day and defense counsel, on conditions of bail and the use of bail conditions in compliance with the provisions of 15 M.R.S. §1002.

8. State funding should be provided to allow for the independent validation of pretrial risk assessment tools currently in use in parts of Maine and then a Maine based, validated tool should be adopted for use statewide.

9. Adequate state funding should be provided to ensure consistently available statewide pretrial supervision in the community. Whether someone is released on pretrial supervision should not be dependent upon the availability of such services in that particular community or the defendant's place of residence.

10. The State of Maine Department of Corrections (DOC) should be provided sufficient funding for staffing to supervise those probationers charged with violation of probation. The DOC/Criminal Justice system should stop relying upon Maine Pretrial Services to supervise persons charged with violations of a probation condition. It is an inappropriate use of resources to have both DOC and MPTS supervise persons charged with probation violations.

11. 15 M.R.S. §1025-A should be amended to allow a properly authorized and trained county jail employee to prepare and execute a PR or Unsecured bail bond when a bail commissioner orders PR or unsecured bail. A copy of the proposed language change is attached.

12. 15 M.R.S. § 1026 (3), Standards for Release on Preconviction Bail, should be amended to include specific language about refraining from the possession of alcohol, or illegal drugs, a showing of a demonstrated need for the imposition of the condition and a specific reference to search. A copy of the proposed language is attached.

13. 15 M.R.S. § 1051, Post Conviction Bail, should be amended to set out the standards for bail with respect to a motion to revoke probation. A copy of the proposed language is attached.

14. 17-A M.R.S. § 1205-C, Initial Appearance on a Probation Violation, should be amended, to reference the proposed changes tin item # 13 above. A copy of the proposed language is attached.

Title 15: COURT PROCEDURE -- CRIMINAL
Part 2: PROCEEDINGS BEFORE TRIAL
HEADING: PL 1991, C. 402, §2 (RPR)
Chapter 105-A: MAINE BAIL CODE HEADING: PL 1987, C. 758, §20 (NEW)
Subchapter 2: PRECONVICTION BAIL
HEADING: PL 1987, C. 758, §20 (NEW)

§1025-A. County jail employees

If a court, or a bail commissioner, issues an order that a defendant in custody be released, pending trial, on personal recognizance or upon execution of an unsecured appearance bond, whether or not accompanied by one or more conditions under section 1026, subsection 3, an employee of the county jail having custody of the defendant, if authorized to do so by the sheriff, may, without fee, prepare the personal recognizance or bond and take the acknowledgement of the defendant. [2005, c. 541, §1 (NEW).]

Maine Revised Statutes

Title 15: COURT PROCEDURE -- CRIMINAL

Chapter 105-A: MAINE BAIL CODE HEADING: PL 1987, c. 758, §20 (new)

§1026. STANDARDS FOR RELEASE FOR CRIME BAILABLE AS OF RIGHT PRECONVICTION

1. In general. At the initial appearance before a judicial officer of a defendant in custody for a crime bailable as of right preconviction, the judicial officer may issue an order that, pending trial, the defendant be released:

A. On personal recognizance or upon execution of an unsecured appearance bond under subsection 2-A; [2007, c. 374, §3 (AMD).]

B. On a condition or combination of conditions under subsection 3; or [1997, c. 543, §7 (AMD).]

C. On personal recognizance or execution of an unsecured appearance bond, accompanied by one or more conditions under subsection 3. [1997, c. 543, §7 (NEW).]

Every order for the pretrial release of any defendant must include a waiver of extradition by the defendant and the conditions that the defendant refrain from new criminal conduct and not violate any pending protection from abuse orders pursuant to Title 19, section 769 or Title 19-A, section 4011.

[2007, c. 374, §3 (AMD) .]

2. Release on personal recognizance or unsecured appearance bond.

[2007, c. 518, §2 (RP) .]

2-A. Release on personal recognizance or unsecured appearance bond. The judicial officer shall order the pretrial release of the defendant on personal recognizance or upon execution of an unsecured appearance bond in an amount specified by the judicial officer, unless, after consideration of the factors listed in subsection 4, the judicial officer determines that:

A. The release would not reasonably ensure the appearance of the defendant as required; [2007, c. 374, §5 (NEW).]

B. The release would not reasonably ensure that the defendant would refrain from any new criminal conduct; [2007, c. 374, §5 (NEW).]

C. The release would not reasonably ensure the integrity of the judicial process; or [2007, c. 374, §5 (NEW).]

D. The release would not reasonably ensure the safety of others in the community. [2007, c. 374, §5 (NEW).]

[2007, c. 374, §5 (NEW) .]

3. Release on conditions. Release on a condition or combination of conditions pursuant to subsection 1, paragraph B or C must be as provided in this subsection.

A. If, after consideration of the factors listed in subsection 4, the judicial officer determines that the release described in subsection 2-A will not reasonably ensure the appearance of the defendant at the time and place required, will not reasonably ensure that the defendant will refrain from any new criminal conduct, will not reasonably ensure the integrity of the judicial process or will not reasonably ensure the safety of others in the community, the judicial officer shall order the pretrial release of the defendant

subject to the least restrictive further condition or combination of conditions that the judicial officer determines will reasonably ensure the appearance of the defendant at the time and place required, will reasonably ensure that the defendant will refrain from any new criminal conduct, will reasonably ensure the integrity of the judicial process and will reasonably ensure the safety of others in the community. These conditions may include that the defendant:

(1) Remain in the custody of a designated person or organization agreeing to supervise the defendant, including a public official, public agency or publicly funded organization, if the designated person or organization is able to reasonably ensure the appearance of the defendant at the time and place required, that the defendant will refrain from any new criminal conduct, the integrity of the judicial process and the safety of others in the community. When it is feasible to do so, the judicial officer shall impose the responsibility upon the defendant to produce the designated person or organization. The judicial officer may interview the designated person or organization to ensure satisfaction of both the willingness and ability required. The designated person or organization shall agree to notify immediately the judicial officer of any violation of release by the defendant;

(2) Maintain employment or, if unemployed, actively seek employment;

(3) Maintain or commence an educational program;

(4) Abide by specified restrictions on personal associations, place of abode or travel;

(5) Avoid all contact with a victim of the alleged crime, a potential witness regarding the alleged crime or with any other family or household members of the victim or the defendant or to contact those individuals only at certain times or under certain conditions;

(6) Report on a regular basis to a designated law enforcement agency or other governmental agency;

(7) Comply with a specified curfew;

(8) Refrain from possessing a firearm or other dangerous weapon;

(9) Refrain from the possession, use, or excessive use of alcohol and from any use of illegal drugs. A condition under this paragraph may be imposed only upon presentation to the judicial officer of specific facts demonstrating that the need for such condition;

(9-A) Submit to either a) random search for possession or use prohibited by a condition imposed under paragraph (8) or (9), or b) search upon articulable suspicion for possession or use prohibited by a condition imposed under paragraph (8) or (9);

(10) Undergo, as an outpatient, available medical or psychiatric treatment, or enter and remain, as a voluntary patient, in a specified institution when required for that purpose;

(10-A) Enter and remain in a long-term residential facility for the treatment of substance abuse;

(11) Execute an agreement to forfeit, in the event of noncompliance, such designated property, including money, as is reasonably necessary to ensure the appearance of the defendant at the time and place required, to ensure that the defendant will refrain from any new criminal conduct, to ensure the integrity of the judicial process and to ensure the safety of others in the community and post with an appropriate court such evidence of ownership of the property or such percentage of the money as the judicial officer specifies;

(12) Execute a bail bond with sureties in such amount as is reasonably necessary to ensure the appearance of the defendant at the time and place required, to ensure that the defendant will refrain from any new criminal conduct, to ensure the integrity of the judicial process and to ensure the safety of others in the community;

(13) Return to custody for specified hours following release for employment, schooling or other limited purposes;

(14) Report on a regular basis to the defendant's attorney;

(15) Notify the court of any changes of address or employment;

(16) Provide to the court the name, address and telephone number of a designated person or organization that will know the defendant's whereabouts at all times;

(17) Inform any law enforcement officer of the defendant's condition of release if the defendant is subsequently arrested or summonsed for new criminal conduct;

(18) Satisfy any other condition that is reasonably necessary to ensure the appearance of the defendant at the time and place required, to ensure that the defendant will refrain from any new criminal conduct, to ensure the integrity of the judicial process and to ensure the safety of others in the community; and

(19) Participate in an electronic monitoring program, if available. [2013, c. 227, §1 (AMD).]

B. The judicial officer may not impose a financial condition that, either alone or in combination with other conditions of bail, is in excess of that reasonably necessary to ensure the appearance of the defendant at the time and place required, to ensure that the defendant will refrain from any new criminal conduct, to ensure the integrity of the judicial process or to ensure the safety of others in the community. [2007, c. 518, §3 (RPR).]

C. Upon motion by the attorney for the State or the defendant and after notice and upon a showing of changed circumstances or upon the discovery of new and significant information, the court may amend the bail order to relieve the defendant of any condition of release, modify the conditions imposed or impose further conditions authorized by this subsection as the court determines to reasonably ensure the appearance of the defendant at the time and place required, that the defendant will refrain from any new criminal conduct, the integrity of the judicial process and the safety of others in the community. [2007, c. 518, §3 (RPR).]

[2013, c. 227, §1 (AMD) .]

4. **Factors to be considered in release decision.** In setting bail, the judicial officer shall, on the basis of an interview with the defendant, information provided by the defendant's attorney and information provided by the attorney for the State or an informed law enforcement officer if the attorney for the State is not available and other reliable information that can be obtained, take into account the available information concerning the following:

A. The nature and circumstances of the crime charged; [1987, c. 758, §20 (NEW).]

B. The nature of the evidence against the defendant; and [1987, c. 758, §20 (NEW).]

C. The history and characteristics of the defendant, including, but not limited to:

(1) The defendant's character and physical and mental condition;

(2) The defendant's family ties in the State;

(3) The defendant's employment history in the State;

(4) The defendant's financial resources;

(5) The defendant's length of residence in the community and the defendant's community ties;

(6) The defendant's past conduct, including any history relating to drug or alcohol abuse;

(7) The defendant's criminal history, if any;

(8) The defendant's record concerning appearances at court proceedings;

(9) Whether, at the time of the current offense or arrest, the defendant was on probation, parole or other release pending trial, sentencing, appeal or completion of a sentence for an offense in this jurisdiction or another;

(9-A) Any evidence that the defendant poses a danger to the safety of others in the community, including the results of a validated, evidence-based domestic violence risk assessment recommended by the Maine Commission on Domestic and Sexual Abuse, established in Title 5, section 12004-I, subsection 74-C, and approved by the Department of Public Safety;

(10) Any evidence that the defendant has obstructed or attempted to obstruct justice by threatening, injuring or intimidating a victim or a prospective witness, juror, attorney for the State, judge, justice or other officer of the court; and

(11) Whether the defendant has previously violated conditions of release, probation or other court orders, including, but not limited to, violating protection from abuse orders pursuant to Title 19, section 769 or Title 19-A, section 4011. [2011, c. 680, §2 (AMD).]

[2011, c. 680, §2 (AMD) .]

5. **Contents of release order.** In a release order issued under subsection 2-A or 3, the judicial officer shall:

A. Include a written statement that sets forth all the conditions to which the release is subject in a manner sufficiently clear and specific to serve as a guide for the defendant's conduct; and [1987, c. 758, §20 (NEW).]

B. Advise the defendant of:

(1) The penalties if the defendant fails to appear as required; and

(2) The penalties for and consequences of violating a condition of release, including the immediate issuance of a warrant for the defendant's arrest. [1997, c. 543, §7 (AMD).]

[2007, c. 374, §10 (AMD) .]

6. **Initial appearance in court.** Nothing contained in this chapter may be construed as limiting the authority of a judge or justice to consider the issue of preconviction bail at a defendant's initial appearance in court.

[1989, c. 147, §2 (NEW) .]

7. **Applicability of conditions of release.** A condition of release takes effect and is fully enforceable as of the time the judicial officer sets the condition, unless the bail order expressly excludes it from immediate applicability.

[1995, c. 356, §5 (NEW) .]

SECTION HISTORY
1987, c. 758, §20 (NEW). 1987, c. 870, §4 (AMD). 1989, c. 147, §2 (AMD). 1995, c. 356, §5 (AMD). 1997, c. 543, §7 (AMD). 1997, c. 585, §3 (AMD). 2001, c. 252, §§1,2 (AMD). 2005, c. 449, §1 (AMD). 2007, c. 374, §§3-10 (AMD). 2007, c. 377, §§4, 5 (AMD). 2007, c. 518, §§2, 3 (AMD). 2011, c. 680, §2 (AMD). 2013, c. 227, §1 (AMD).

Maine Revised Statutes

Title 15: COURT PROCEDURE -- CRIMINAL

Chapter 105-A: MAINE BAIL CODE HEADING: PL 1987, c. 758, §20 (new)

§1051. POST-CONVICTION BAIL

1. Application to presiding judge or justice. After post-conviction, except as provided in this section, a defendant may apply to the judge or justice who presided at the trial for bail pending imposition or execution of sentence or entry of judgment or appeal. If the trial judge or justice is not available, the defendant may apply for bail under this section to another judge or justice of the court in which the defendant was convicted. Post-conviction bail is not available to a defendant convicted of:

A. Murder; [1987, c. 758, §20 (NEW).]

B. Any other formerly capital offense for which preconviction bail was denied under section 1027; or [1995, c. 356, §8 (AMD).]

C. Any crime when the defendant's preconviction bail was revoked and denied under sections 1096 and 1097. [1995, c. 356, §8 (AMD).]

The judge or justice shall hold a hearing on the record on the bail application and shall state in writing or on the record the reasons for denying or granting bail. If bail is granted, the judge or justice shall also state, in writing or on the record, the reasons for the kind and amount of bail set, for any condition of release imposed and for the omission of any condition of release sought by the State.

The judge or justice may enter an order for bail pending appeal before a notice of appeal is filed, but conditioned upon its timely filing.

Every order for post-conviction release of a defendant must include a waiver of extradition by the defendant as well as a condition of bail that the defendant refrain from new criminal conduct and not violate any pending protection from abuse order pursuant to Title 19, section 769, or Title 19-A, section 4011.

[1997, c. 543, §12 (AMD) .]

2. Standards. Except as provided in subsection 4, a defendant may not be admitted to bail under this section unless the judge or justice has probable cause to believe that:

A. There is no substantial risk that the defendant will fail to appear as required and will not otherwise pose a substantial risk to the integrity of the judicial process; [1997, c. 543, §13 (AMD).]

B. There is no substantial risk that the defendant will pose a danger to another or to the community; and [1997, c. 543, §13 (AMD).]

C. There is no substantial risk that the defendant will commit new criminal conduct. [1997, c. 543, §13 (NEW).]

In determining whether to admit a defendant to bail, the judge or justice shall consider the factors relevant to preconviction bail listed in section 1026, as well as the facts proved at trial, the length of the term of imprisonment imposed and any previous unexcused failure to appear as required before any court or the defendant's prior failure to obey an order or judgment of any court, including, but not limited to, violating a protection from abuse order pursuant to Title 19, section 769 or Title 19-A, section 4011.

If the judge or justice decides to set post-conviction bail for a defendant, the judge or justice shall apply the same factors in setting the kind and amount of that bail.

[2007, c. 374, §12 (AMD) .]

2-A. Violation of Probation; Standards. This subsection governs bail with respect to a motion to revoke probation:

A. A judge or justice may deny or grant bail.

B. In determining whether to admit the defendant to bail, and if so, the kind and amount of bail, the judge or justice shall consider the nature and circumstances of the crime for which the defendant was sentenced to probation, the nature and circumstance of the alleged violation, and any record of prior violations of probation, as well as the factors relevant to preconviction bail listed in section 1026.

3. **Conditions of release.** Except as provided in subsection 4, the judge or justice may impose, in lieu of or in addition to an appearance or bail bond, any condition considered reasonably necessary to minimize the risk that the defendant may fail to appear as required, may compromise the integrity of the judicial process, may commit new criminal conduct, may fail to comply with conditions of release or may constitute a danger to another person or the community.

[1997, c. 543, §14 (AMD) .]

4. **Standards applicable to bail arising out of State's appeal under section 2115-A, subsection 2.** If the State initiates an appeal under section 2115-A, subsection 2, the judge or justice shall apply subchapter II to a defendant's application for bail pending that appeal.

[1987, c. 758, §20 (NEW) .]

5. **Appeal by defendant.** A defendant may appeal to a single Justice of the Supreme Judicial Court a denial of bail, the kind or amount of bail set or the conditions of release imposed by which the defendant is aggrieved. The single justice may not conduct a hearing de novo respecting bail, but shall review the lower court's order. The defendant has the burden of showing that there is no rational basis in the record for the lower court's denial of bail, the kind or amount of bail set or the conditions of release imposed of which the defendant complains. The determination by the single justice is final and no further relief is available.

[1999, c. 731, Pt. ZZZ, §12 (AMD); 1999, c. 731, Pt. ZZZ, §42 (AFF) .]

6. **Appeal by State.** The State may appeal to a single Justice of the Supreme Judicial Court the granting of bail, the kind or amount of bail set or the lower court's failure to impose a condition of release. The single justice may not conduct a hearing de novo respecting bail, but shall review the lower court's order. The State has the burden of showing that there is no rational basis in the record for the lower court's granting of bail, the kind or amount of bail set or the omission of the conditions of which the State complains. The determination by the single justice is final and no further relief is available.

[1999, c. 731, Pt. ZZZ, §12 (AMD); 1999, c. 731, Pt. ZZZ, §42 (AFF) .]

7. **Revocation of bail.**

[1991, c. 393, §1 (RP) .]

7-A. **Revocation of post-conviction bail.**

[1995, c. 356, §10 (RP) .]

8. **Failure to appear; penalty.**

[1995, c. 356, §11 (RP) .]

9. **Violation of condition of release; penalty.**

[1995, c. 356, §12 (RP) .]

SECTION HISTORY
1987, c. 758, §20 (NEW). 1987, c. 870, §§6,7 (AMD). 1991, c. 393, §§1,2 (AMD). 1995, c. 356, §§8-12 (AMD). 1997, c. 543, §§12-14 (AMD). 1999, c. 731, §ZZZ12 (AMD). 1999, c. 731, §ZZZ42 (AFF). 2007, c. 374, §12 (AMD).

Maine Revised Statutes

Title 17-A: MAINE CRIMINAL CODE

Chapter 49: PROBATION HEADING: PL 2003, c. 688, Pt. A, §13 (rpr)

§1205-C. INITIAL PROCEEDINGS ON PROBATION VIOLATION; FILING OF MOTION; INITIAL APPEARANCE

1. A motion for probation revocation, which first must be approved by the prosecuting attorney, must be filed within 3 days, excluding Saturdays, Sundays and holidays, of the arrest of a probationer pursuant to section 1205.

[2005, c. 661, §5 (AMD); 2005, c. 661, §9 (AFF) .]

2. The motion must set forth the facts underlying the alleged violation and, unless the person is to be afforded a probable cause hearing at the initial appearance as provided in section 1205, must be accompanied by a copy of the summons delivered to the probationer.

[2005, c. 661, §6 (AMD); 2005, c. 661, §9 (AFF) .]

3. Upon receipt of a motion for revocation of probation with respect to a person arrested pursuant to section 1205 or section 1205-B, subsection 4 who is not sooner released, the court shall provide the person with an initial appearance on the revocation of probation within 5 days after the arrest, excluding Saturdays, Sundays and holidays. A copy of the motion must be furnished to the probationer prior to or at the initial appearance.

[2005, c. 661, §7 (AMD); 2005, c. 661, §9 (AFF) .]

4. At the initial appearance, the court shall advise the probationer of the contents of the motion, the right to a hearing on the motion, the right to be represented by counsel at a hearing and the right to appointed counsel. If the probationer can not afford counsel, the court shall appoint counsel for the probationer. The court shall call upon the probationer to admit or deny the alleged violation. If the probationer refuses to admit or deny, a denial must be entered. In the case of a denial, the court shall set the motion for hearing and may commit the person, with or without bail, pending hearing.

[1999, c. 246, §3 (NEW) .]

5. In deciding whether to set bail under this section and in setting the kind and amount of that bail, the court must be guided by the standards of post-conviction bail in Title 15, section 1051, subsections 2-A and 3. Appeal is governed by Title 15, section 1051, subsections 5 and 6. Bail set under this section is also governed by the sureties and other forms of bail provisions in Title 15, chapter 105-A, subchapter IV and the enforcement provisions in Title 15, chapter 105-A, subchapter V, articles 1 and 3, including the appeal provisions in Title 15, section 1099-A, subsection 2.

[1999, c. 246, §3 (NEW) .]

6. Failure to comply with the time limits set forth in this section is not grounds for dismissal of a motion for probation revocation but may be grounds for the probationer's release on personal recognizance pending further proceedings.

[2003, c. 657, §9 (AMD) .]

SECTION HISTORY

Appendix K

1999, c. 246, §3 (NEW). 2003, c. 657, §9 (AMD). 2005, c. 661, §§5-7 (AMD). 2005, c. 661, §9 (AFF).

Appendix K

Incarceration Related to Fine Collection

According to a snap shot study of five jails, the average period of incarceration for offenders in those jails who are arrested for defaulting on the payment of criminal fines is less than two days. Although this a relatively brief stay in jail, the large number of offenders who are arrested for this reason and the constant flow of them into the jail contributes to overcrowding. This study did not include people who were incarcerated on a commitment order for failing to show cause at a 1304 hearing, which would usually involve imprisonment for a longer period.

The Task Force Proposes the Following Recommendations:

1. Based on the premise that fewer people would default in paying fines if they could afford to pay them, courts should be cognizant of the requirements of 17-A M.R.S § 1302(1) in setting the amount of the fine. Section 1302 requires that the court consider the financial capacity of the offender and the nature of the financial burden on the offender in setting the fine, unless the fine is mandatory. There are two impediments to meeting the goal of considering the resources of the offender in setting fines. First, there is an informal "going rate" used in many courts in setting fines for common offenses such as shoplifting. It could be difficult to enact dramatic changes to this practice, however, because it has evolved despite the existence of section 1302, although additional education could be helpful. Second, the proliferation of mandatory minimum fines has caused courts to impose fines that offenders have little or no hope of ever paying. In reviewing incarceration statistics, the three offenses carrying mandatory minimum fines (other than operating under the influence) that most frequently result in incarceration of the offender for nonpayment of the fine are operating after suspension, drug possession and assault. We urge consideration of "safety valve" language

that would give the court authority to impose less than the mandatory fine in limited situations as defined in Attachment A.

2. Obviously, fewer offenders would be arrested if the threshold for warrant issuance were increased. It must be emphasized that offenders are not arrested for failing to pay a fine, but for failing to appear in court to ask for an extension when payment is due. Currently, the court does not issue arrest warrants when the offender has defaulted in paying a fine by not appearing and the amount due is less than $25. We urge that the threshold for warrant issuance be raised to $100. Although this could cause the court to collect less money, fewer offenders would be incarcerated, and in most cases a license suspension will encourage the offender to pay the remaining balance. Additionally, it would be less likely that an offender would be incarcerated for failing to pay the surcharges and fees added to the fine because a significant portion of the last $100 owed would represent those surcharges and fees.

3. Offenders who have great difficulty in paying fines should be given the opportunity to perform public service work to avoid the risk of incarceration. Currently, 17-A M.R.S. 1304(3)(B) authorizes the court to permit an offender to "work off" fines even if there has not been a finding that the failure to pay was unexcused. This provision is limited to locations where the sheriff of the county in which the fine was assessed supervises public service work or contracts with a community confinement agency to do so. Although it appears that multiple sheriffs wish to offer such supervision, this provision is not in fact being implemented. We suggest that this provision for public service work be implemented and expanded, provided it is supervised by the sheriff or a community confinement agency. Although it was originally intended to apply to Class D and E offenses only, a drafting error in labeling this provision as subsection (3)(B) could cause the provision to be interpreted as applying

to all offense classifications. We recommend that it be clarified to cover Class C, D, and E offenses only. We also suggest that the credit for each hour of work should be set at the federal minimum wage. We advocate that this provision only be used for offenders who have demonstrated great difficulty in paying off the fine imposed.

4. Fine collection procedures in the courts should be standardized to assure uniformity throughout the state. In standardizing the procedures, the relevant statutory provisions should be simplified by amendment to reflect best procedures. The standard fine payment order could also be simplified so that a person given time to pay a fine could more easily understand the procedures.

Attachment A

17-A MRS sec. 1301(6) ***[or sec. 1302(3)]***is added as follows:

Notwithstanding any other provision of law, the court may suspend all or a portion of a minimum fine under sec.1301(6) or under sec. 207(3) or under 29-A MRS sec. 2412-A(3), and the court may impose a fine other than the mandatory fine, if the court finds by a preponderance of the evidence that there are exceptional circumstances that justify imposition of a lesser financial penalty. In making a finding of exceptional circumstances, the court may consider:

1. Reliable evidence of financial hardship on the part of the offender and the offender's family and dependents;
2. Reliable evidence of special needs of the offender and/or his/her family and dependents;
3. Reliable evidence of the offender's income and future earning capacity and the offender's assets and financial resources from whatever source;
4. Reliable evidence regarding any pecuniary gain derived from the commission of the offense;
5. The impact of imposition of the mandatory fine on the offender's reasonable ability to pay restitution under ch. 54.

Appendix K

COMMUNITY BASED DIVERSION

Community Based Pretrial Diversion Subcommittee
October 23, 2015

Assigned Task of Subcommittee: Present proposals for pretrial diversion alternatives, case management and treatment availability, supervised community service programs, and wrap-around programs, including potential funding sources for such programs.

Summary of what subcommittee accomplished: We looked at what already exists in Maine and discovered there are existing programs and developing programs. We recommend the following: a report that surveys criminal justice diversion programs and initiatives that currently exist in Maine; a day-long education forum exploring diversion; and a task force committed to diversion and focused on restorative practices.

1. A Statewide Survey of Maine Criminal Justice Diversion Programs and Initiatives.

We propose a survey that will review the landscape of diversion programs across the state that offer diversion as an alternative to traditional justice case processing. We propose this because we have learned that such options exist but are not well known and therefore may be absent from or underrepresented in state conversations about diversion.

The report intends to provide state and local policymakers and other stakeholders with what many communities are doing in terms of diversion-based alternatives, what constitutes effective and efficient programming, and what policies, practices and innovations may be applicable in Maine. This subcommittee concludes "[c]entral to the development of the project is the understanding that a criminal conviction- misdemeanor or felony – triggers a cascade of collateral consequences that often severely hamper an individual's ability to become a productive member of the community." Center for Health and Justice at TASC, National Survey of Criminal Justice Diversion Programs and Initiatives, December 2013. This subcommittee will survey all Maine diversion programs and initiatives. [1]

2. One Day Statewide Educational Forum:

- Sponsor a statewide conversation about diversion in order to encourage and implement effective diversion initiatives that protect

[1] Although the subcommittee is interested in all diversion programs in the State, it is particularly interested in programs that afford individuals an opportunity to address their behavior without resulting in a criminal conviction or certainly in a felony conviction.

public safety, spend resources wisely, and promote health and restored citizenship.

- Explore the array of meanings, approaches and value of diversion at various stages of the criminal process.
- Educate and inform members of the legal and enforcement communities as well as the general public about the variety, meaning, definitions, and effects of use of diversion strategies throughout Maine, the US, and other countries around the world.
- Outline for program:

  First Part of the Day includes:
  Presentations: Common Definitions and Descriptions of Diversion Strategies; Where it's happening around the country, the world and to what effect (e.g., evidence-based best practices and innovations in pretrial justice reform, risk assessment tools and objective assessments for suitability-for-release determinations, diversion of nonviolent offenders into community based programs, and current research and data)

  Lunch-Speaker with experience in a successful pretrial diversion program

  Second part of the day includes Break Out into community-based learning groups with focused questions about what diversion might look like in their communities and development of their community action plan.

  Closing - includes report back from the community groups.

3. Task Force:

We recommend that Chief Justice Saufley establish an ongoing, statewide task force whose primary purpose is to explore, recommend, and assess Diversion processes and to establish a Justice Diversion system for the state of Maine. We further recommend that any programs recommended for this Diversion system be assessed based on their efficacy, cost savings and restorative benefits. By restorative we mean: do they recognize the needs of victims; do they promote meaningful accountability and reparation; do they recognize, acknowledge and include the context and community in which the harm occurred; do they repair relationships; do they decrease the likelihood of re-offense?

Possible projects for this task force:[2]

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[2] At least 43 states statutorily provide pretrial diversion alternatives to traditional

a. LEAD model - To support the development of LEAD, Law Enforcement Assisted Diversion, in Maine. LEAD is modeled after a successful program started in Seattle, Washington. Instead of arrest, for low-level

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criminal justice proceedings for persons charged with criminal offenses. Pretrial diversion is designed to address factors that contribute to criminal behavior of the accused, called criminogenic needs. Laws require that participation in diversion is voluntary and that the accused has access to counsel prior to making the decision to participate. Individuals are diverted prior to conviction and a guilty plea may or may not be required. Successful completion of the program results in a dismissal of charges.

Statutory diversion programs and courts are often created by law to address the needs of a specific defendant population. Thirty seven states have population-specific diversion programs which include:

Twenty six states have diversion alternatives that address substance abuse. These programs or treatment courts are available to people charged with drug or alcohol related offenses as well as defendants identified as having substance abuse or addiction needs. Some states allow diversion for people identified as having a mental illness related to their criminal behavior.

Many of the veterans or active military who have become involved with the criminal justice system have substance abuse or mental health needs stemming from combat experiences. Fifteen states allow participation in diversion programs or treatment courts specific to the needs of veterans.

Eight states permit some domestic violence and child abuse offenses to be diverted. These laws generally require victims to agree to the diversion and involve classes dealing with parenting and anger management.

Worthless check diversion programs are authorized in nine states. These programs allow first time violators to clear their record after paying all restitution and completion of a financial management skills class.

Six states have laws allowing other population specific programs, including defendants accused of property offenses, prostitution-related offenses, serious traffic offenses and defendants who are considered victims of human trafficking.

Treatment courts are a specific type of diversion which provide defendants with intensive treatment, graduated sanctions and rewards, close monitoring by the court and other programming such as education or job training. Twenty six states have authorized the use of substance abuse, mental health, veterans and other types of these specialized courts for pretrial diversion. Fourteen states have created both diversion programs and treatment courts for specified populations. California has both a substance abuse diversion program and treatment court, and it is mandatory that low-level drug offenders are diverted. This policy requires the defendant to plead guilty and participate in intensive community-based treatment under the supervision of probation officers. Another law allows courts to create a pre-guilty plea drug court where defendants remain under the supervision of the court. Local courts may choose which diversion program to utilize. Pretrial Diversion, National Conference of State Legislatures, ncsl.org.

drug possession and sales, offenders are diverted by law enforcement to community programs that provide housing, treatment and other services. A Maine Mayors Coalition has proposed a program modeled after LEAD for eight pilot projects statewide.[3]

b. Maine Pretrial Services and Restorative Justice - To provide diversion options to low risk Maine criminal defendants by supporting the partnership of Maine Pretrial Services with Restorative Justice in Maine to cross train staff and volunteers to support principles of restorative justice and least restrictive bail in daily practices that concern criminal case processing. After training in RJ principles, Maine Pretrial staff will

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[3] Chris Poulos, of Portland LEAD, writes,

"One way to immediately begin addressing the daunting issue of criminal justice reform generally – and mass incarceration specifically – is to divert eligible low-level offenders away from the criminal justice process entirely. . . Instead of low-level, often drug-addicted offenders being sent to jail, they are immediately connected with an intensive case manager. The initial meeting, occurring directly following arrest, helps determine why the person is involved in the activities they are involved in and identifies what we can do to help lift the individual out of the situation. Instead of jailing the individual, we ask them how we can help. Participants can also enter the program through "social contact," where an officer and/or case manager approaches someone known to be in need and offers the program's resources without waiting for an arrest. Available resources for LEAD participants include housing, mental health and substance abuse treatment, vocational training, education, and, when appropriate, direct connection with members of the recovery community who can share their own experiences and solutions.
LEAD targets the people unable to meet the often-stringent requirements of "drug court" programs. Among the differences between LEAD and drug courts is that with LEAD, judicial resources are preserved for more serious offenses. The diversion is immediate and not contingent upon a guilty plea or numerous other conditions. The program is focused on providing low barriers to entry and not only emphasizes harm reduction principles, but also encourages long-term solutions and upward social mobility. [LEAD] clients are the people who have fallen through the cracks of society and ended up on the streets or in unsafe housing. The purpose of LEAD is to break the cycle of poverty, addiction, crime and incarceration." Chris Poulos, Law Enforcement Assisted Diversion: An Alternative to Mass Incarceration, ACSblog, http://www.acslaw.org/acsblog/law-enforcement-assisted-diversion-an-alternative-to-mass-incarceration, March 20, 2015.

incorporate these principles in prearraignment screening of defendants in an effort to recommend appropriate individuals for post booking diversion to RJ based programs, which can provide mentoring, community supports coupled with pretrial supervision. Successful participants will be eligible for dismissal or reduction of charges. This programming would ideally reflect the diversion standards as written by the National Association of Pretrial Services Agencies (NAPSA) and the American Bar Association (ABA).

c. Maine Business Community and Pretrial Diversion - To develop with the help of the business community a loss prevention program that diverts first time offenders from the criminal justice system. For example, a partnership with Hannaford, who is familiar with the Maine restorative justice community, might lead to a pretrial diversion program where first time offenders may be referred to pretrial diversion (e.g. through restorative justice program) reflecting a shift from punishment to restoring and hopefully enhancing employment opportunities of first time offenders.